

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION

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GREG DAVIS, AS NEXT FRIEND \*  
AND NATURAL GUARDIAN OF \*  
JOSHUA DAVIS \*

PLAINTIFF, \*

vs. \*

HOUSTON COUNTY, \*  
BOARD OF EDUCATION \*

DEFENDANT. \*

CASE NO.1:06-CV-953-MEF

MOTION FOR SUMMARY JUDGMENT

THE DEFENDANT, Houston County Board of Education ("HCBOE,") moves this Court to enter a full, final and appealable summary judgment in its favor and against the Plaintiff as to all counts of the Complaint, pursuant to Rule 56 Fed. R. Civ. P. In support of this request, the Defendant states:

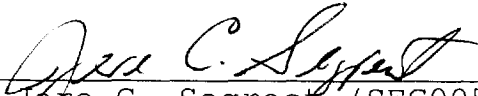
1. No genuine issues of material fact exists.
2. The HCBOE is entitled to a judgment and to affirmative rulings and orders from this Court as a matter of law.
3. There is no just reason for delay.
4. The HCBOE submits its Brief in Support of its Motion for Summary Judgment in support of this motion.

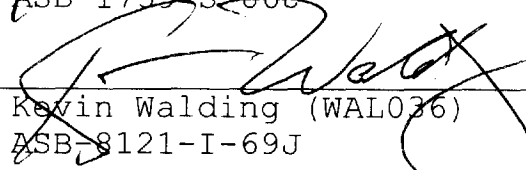
5. The HCBOE submits the following evidentiary materials, in addition to the pleadings of record in this case, in support of this motion:

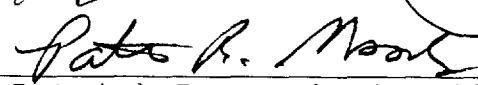
- (a) The Deposition of Greg Davis together with Defendant's Exhibits 1 and 2 thereto.
- (b) The Deposition of Joshua Davis.
- (c) The Affidavit of Brad Smith.
- (d) The Affidavit of Cheryl Smith.
- (e) The Affidavit of Clay Carter.
- (f) The Affidavit of James Murrey.
- (g) The Affidavit of Josh Cox.
- (h) The Affidavit of Judy Childs.
- (i) The Affidavit of Wanda Seals.

WHEREFORE, the HCBOE moves the Court to grant it a full, final, and appealable summary judgment against the Plaintiff in this matter as to the single count of the Complaint, or alternatively, to enter such further, greater, or different relief as the evidence and law entitle it.

HARDWICK, HAUSE, SEGREST & WALDING

BY:   
Jere C. Segrest (SEG005)  
ASB-1759-S-80J

BY:   
Kevin Walding (WAL036)  
ASB-8121-I-69J

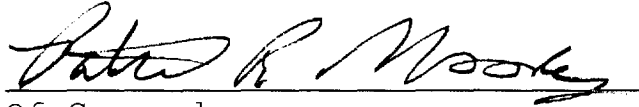
BY:   
Patrick B. Moody (MOO110)  
ASB 0902-T-73M  
Post Office Box 1469  
Dothan, Alabama 36302  
Phone: (334)794-4144  
Fax: (334)671-9330  
ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that, this date, I have served a copy of this document on the following individual(s) or attorney(s) of record by placing a copy in the United States Mail in a properly addressed envelope with adequate postage.

Malcolm R. Newman, Esq.  
Attorney at Law  
Post Office Box 6137  
Dothan, Alabama 36302

This the 14<sup>th</sup> day of November, 2007.

  
Of Counsel

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IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE MIDDLE DISTRICT OF ALABAMA

SOUTHERN DIVISION

GREG DAVIS, AS NEXT )  
 FRIEND AND NATURAL )  
 GUARDIAN OF JOSHUA )  
 DAVIS, )

PLAINTIFF, )

VS. )

CASE NO.1:06-CV-953-MEF

HOUSTON COUNTY, ALABAMA )  
 BOARD OF EDUCATION, )

DEFENDANT. )

The deposition of GREG DAVIS, taken by the  
 Defendant, pursuant to the Federal Rules of  
 Civil Procedure, before John G. Whitfield, Court  
 Reporter and Notary Public, State at Large, at  
 the law offices of Hardwick, Hause, Segrest &  
 Walding, Dothan, Alabama, on the 14th day of  
 June, 2007, at 9:00 A.M., CST, pursuant to  
 notice.

## APPEARANCES:

## FOR THE PLAINTIFF:

MR. MALCOLM R. NEWMAN  
 Attorney at Law  
 Dothan, Alabama

## FOR THE DEFENDANT:

MR. PATRICK B. MOODY  
 MR. KEVIN WALDING  
 Attorneys at law  
 Dothan, Alabama

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## STIPULATION

It is stipulated by and between counsel for  
 the parties that this deposition be taken at  
 this time by John G. Whitfield, Court Reporter  
 and Notary Public, State at Large, who is to act  
 as commissioner without formal issuance of  
 commission to him; that said deposition shall be  
 taken down stenographically, transcribed, and  
 certified by the commissioner. The signature of  
 the witness is waived.

Except for objections as to the form of  
 questions, no objections need be made at the  
 time of the taking of the deposition by either  
 party, but objections may be interposed by  
 either party at the time the deposition is read  
 into evidence, which shall be ruled upon by the  
 Court on the trial of the cause upon the grounds  
 of objection then and there assigned.

GREG DAVIS

having been first duly sworn, testified as  
 follows, to-wit:

## EXAMINATION

BY MR. MOODY:

Q Mr. Davis, my name is Patrick Moody.

This is Kevin Walding. We represent the Houston  
 County Board of Education. And we're wanting to  
 talk to you this morning about the lawsuit you  
 filed concerning a football game and the events  
 after that, back in 2005.

Have you ever given a deposition before,  
 sir?

A No.

Q All right. Well, it's a fairly simple  
 process. I'm going to ask you some questions.  
 And, if you could, just answer them out loud and  
 try not to say "uh-huh," nod your head and  
 things like that. If you don't understand  
 anything I'm asking, just ask, and I'll repeat  
 it or try to reword it, so we can communicate.

Have you been on any kind of medications or  
 drugs, that would inhibit you from being able to

understand our conversation today, and tell the  
 truth?

A No, sir.

Q Are you suffering from any kind of  
 medical condition, that would keep you from  
 being able to communicate with us today?

A No, sir.

Q All right. And, if you could, just  
 state your full name for the record?

A Gregory Tillman Davis.

Q All right, Mr. Davis. And where do  
 you currently live?

A 615 Sherwood Trail, Newton, Alabama.

Q All right. And how long have you  
 lived there, sir?

A Approximately 11 years, I believe.

Q And are you married, sir?

A Yes, sir.

Q And to whom?

A Deborah Davis.

Q And how long y'all been married, sir?

A You had to put me on the spot.

Twenty-one years. Trying to make sure. We just  
 had an anniversary.

Q All right. And is that Josh's mother?

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1 A Yes. Correct.  
 2 Q And other than Josh, are there any  
 3 other children?  
 4 A Yes, sir.  
 5 Q All right. How many children, sir?  
 6 A Four more.  
 7 Q And would you give me their names and  
 8 ages?  
 9 A Yes. I'll just give you the names we  
 10 call them by. Gabby Davis. She's 17. Arianna  
 11 Davis, 15. Elijah. He's ten. And Grace Ann is  
 12 four.  
 13 Q So, Josh is the oldest child?  
 14 A Correct.  
 15 Q And what is your current occupation,  
 16 sir?  
 17 A I'm a maintenance supervisor.  
 18 Q And where are you the supervisor at?  
 19 A Grove Park Retirement.  
 20 Q And about how long have you been  
 21 there?  
 22 A Two years.  
 23 Q And where were you at before there?  
 24 A Wiregrass Habitat for Humanity.  
 25 Q About how long were you with Habitat?

Page 6

1 A About three years, I believe. Three  
 2 or four.  
 3 Q So, would you have been at Wiregrass  
 4 for --  
 5 A I was there -- I was working out my  
 6 last week, when this event happened.  
 7 Q And does your wife work, sir?  
 8 A No, sir.  
 9 Q And so, she wasn't working at the time  
 10 of this event --  
 11 A No, sir.  
 12 Q -- or anything? All right. And do  
 13 you have any relatives, by blood or marriage,  
 14 that are over the age of 19, and that live in  
 15 Houston, Henry, Dale, Geneva or Coffee County?  
 16 A Repeat that? How close of a relative  
 17 are we talking about?  
 18 Q Cousins? Close cousins?  
 19 A I can tell you about where they live.  
 20 I mean -- Buddy Faircloth. He lives about three  
 21 miles from me.  
 22 Q Okay.  
 23 A Works for the board of education.  
 24 Q With the Houston County?  
 25 A Uh-huh.

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1 Q Okay. And that was Faircloth, is the  
 2 last name?  
 3 A Uh-huh. How many miles -- how many  
 4 counties did you say?  
 5 Q Houston, Henry, Dale, Geneva or  
 6 Coffee?  
 7 A That may be the only one that I can  
 8 recollect.  
 9 Q All right.  
 10 A At the moment.  
 11 Q Would your wife have any different  
 12 relatives in that area?  
 13 A Her father and mother, her sisters and  
 14 her brother.  
 15 Q Could you give me their names?  
 16 A Yes. Bob and Barbara Carnell. That's  
 17 her parents.  
 18 Q And I believe there was a brother?  
 19 A Yeah. That's Robert Carnell.  
 20 Q And was there a sister?  
 21 A Elaine. And I'm not sure what her  
 22 last name is, now. I'm not that close to them.  
 23 And then, there's Paula. There's another one.  
 24 I'm not sure what her --  
 25 Q And Elaine and Paula are both sisters?

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1 A Correct. That's my wife's sisters.  
 2 Q All right. And do you have any close  
 3 friends -- and I usually describe that as people  
 4 that you normally, you know, socialize with,  
 5 have cook-outs together, that kind of thing --  
 6 in Houston, Henry, Dale, Geneva or Coffee  
 7 County? That same we were talking about  
 8 earlier?  
 9 A Yeah, I could name a few, I guess.  
 10 Q All right. Well, let's name a couple.  
 11 And, if it gets to be real long, we'll just get  
 12 you to do a list and give them to Mr. Newman.  
 13 That may be the easiest thing to do.  
 14 A Joe Watson.  
 15 Q All right.  
 16 A Larry Smith. And that would probably  
 17 be just the two closest, I would --  
 18 Q Okay.  
 19 A And, of course, my wife would have  
 20 different --  
 21 Q Would you happen to know her closest  
 22 friends, right off the bat?  
 23 A I couldn't tell you who her closest  
 24 would be.  
 25 Q And do y'all attend church anywhere,

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1 currently?

2 A Not at the moment. We're still  
3 members of -- (drown out by cough) -- Pleasant,  
4 by my wife attending with her father and them.  
5 But I'm not sure where that's at.

6 Q And how long had y'all been members of  
7 it? What is it? Pleasant Home?

8 A Yeah. It's five years, I believe.

9 Q Are there any other kind of social or  
10 civic clubs y'all are a member of?

11 A No.

12 Q And can you tell me about your  
13 educational history a little bit? Did you  
14 attend high school?

15 A Yes. I graduated from Arifton, in  
16 1983.

17 Q Okay.

18 Q And have you --

19 A Went to Enterprise some and Wallace  
20 some, but not -- never attained a degree from  
21 either one.

22 Q Okay. And do you happen to know the  
23 years, roughly, that you went to --

24 A That would be -- I would say the  
25 Enterprise thing was in '80 -- right at '84.

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1 And then, I skipped a few years and went to  
2 Wallace, probably 86, '87.

3 Q So, nothing real recent, then?

4 A No, sir.

5 Q Okay. And I think we've already  
6 talked about your work history. We had the  
7 Grove Park, and then, the Wiregrass Habitat for  
8 Humanity, and I think that took us back about  
9 five years or so?

10 A Yes.

11 Q Can you tell me where you worked  
12 before Wiregrass, just so we can --

13 A Yeah. Eaglewood Construction Company,  
14 Denver, North Carolina. I worked here. The  
15 company was in North Carolina.

16 Q And, if you would, please, sir, just  
17 in your own words, explain to me the whole  
18 situation concerning this football game? And I  
19 guess you could start back before Josh was, I  
20 think, hit, as y'all were claiming, and just  
21 kind of work through the rest of the game for  
22 me, if you don't mind?

23 A Start where the incident happened?

24 Q Yeah. Well, I think y'all were  
25 saying, in the complaint, that he was injured,

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1 and then, the incident actually happened after  
2 the injury. So, could you start, I guess, right  
3 about the time of the injury? Or how did he get  
4 injured and --

5 A Well, he was playing football.

6 Q Right.

7 A So, I mean, we're not sure at what  
8 point of the game it happened. So, I couldn't  
9 tell you the exact moment that it happened.

10 I know that they went in at half time --  
11 now, this is after the fact that I find out. I  
12 don't know this at the moment.

13 Q Okay.

14 A But my understanding was that he was  
15 throwing up, at half time. Nobody attended to  
16 him.

17 He come back on the field. He didn't -- he  
18 looked -- you know, he said he was hot. I asked  
19 him. And then, we go through -- he snapped long  
20 snaps. He had long-snapped -- the punt was the  
21 first one down. And he had a chance to cream a  
22 guy, and he just stopped and looked like he --  
23 you know, he just didn't do nothing.

24 And he was pulled off the field. And the  
25 coach was all over him about it. And he -- they

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1 had a conversation, and he walked off.

2 And they -- I don't know what happened in  
3 between that. Something about he couldn't go  
4 back in. I don't know.

5 The quarterback was seen talking to him.  
6 And then, when they were going back on offense,  
7 Josh went back out. And then, they made him  
8 come back off.

9 And, as he was walking off -- he wasn't  
10 running off -- he come by the coach, hit the  
11 coach with his shoulder pad, bumped him. I  
12 remember the coach telling he grazed him. And  
13 that -- then, the coach swung around grabbed him  
14 violently.

15 And that's when I got out of my seat and  
16 hollered at him, and told him to let him go.  
17 And we -- I exchanged words with them. They  
18 didn't say nothing to me. I didn't go over the  
19 fence. I stayed on the side of the fence.

20 He sat down. They got him sat down. He  
21 was on the bench. He was really upset. He was  
22 crying.

23 He stood up. And, when he stood up, he  
24 bumped another coach, the one that claimed he  
25 hit him with a fist. Which all of them claim



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1 that. And, I've seen that on film, where he did  
2 it. When he stood up, he bumped him in the  
3 face. The guy's glasses crooked. He walked  
4 off. And the next thing I know, they're  
5 hollering for the police.

6 Josh is visibly upset. He's crying. He's  
7 going down the field, has people grabbing at  
8 him.

9 The game warden, I can't remember his name,  
10 I know the man, he had jumped over and got hold  
11 of Josh, and Josh was, like, disoriented, and  
12 looked at me. He was, you know, crying, he was  
13 upset. He didn't know what was going on.

14 And I told him, I said, "I know him, Josh."  
15 You know, "Stay right there with him."

16 We go to the end of the field. Tim  
17 Pitchford is sitting on a bench, down at the end  
18 of the field.

19 I said, "Mr. Pitchford, we've got a  
20 situation. I need you to" --

21 He said, "This is not the time or the  
22 place."

23 So, the next thing I know, we're surrounded  
24 by police in a locker room. They're all  
25 hollering at Josh to take his stuff off and get

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1 out of here, now. That we had to leave.

2 Q All right. And let's kind of walk  
3 back through there, and kind of flesh out some  
4 of that. So, you believe he was injured before  
5 half time --

6 A I believe there was something wrong  
7 with him, being -- throwing up at half time,  
8 like that. I don't understand. I've played  
9 enough ball to know, if you're throwing up like  
10 that, there's something wrong.

11 Q Did --

12 A Now, I did not know this until after  
13 the fact.

14 Q Right.

15 A I mean, I didn't -- if I had known he  
16 was throwing up at half time, I would have went  
17 -- if somebody had said, "Greg, your son is  
18 throwing up," of course, I would have went back  
19 there and seen about him.

20 Because I had an incident two years before  
21 that, where he was injured in a football game,  
22 he was on the field, and he had to squat down,  
23 to breathe, because he had had his ribs bruised,  
24 and they wouldn't pull him out.

25 And I finally got him to the sideline, and

Page 15

1 nobody was still looking at him. I had jumped  
2 the fence, and, "Son, what's wrong?"

3 "I can't breathe."

4 So, we had to leave by ambulance that  
5 night.

6 You know, that's the case where -- I mean,  
7 I know that, the heat of the battle, they're not  
8 paying attention as much as -- but, you know, if  
9 I knew there was something wrong, I would have  
10 been there.

11 Q All right. Well, do you remember a  
12 certain play that Josh had a really hard hit, or  
13 hit somebody really hard, where he had to come  
14 out of the game, or something like that, before  
15 half time?

16 A I can't say that I did. Josh is a  
17 lineman. Plays interior a lot. And he's hit --  
18 of course, you probably -- if anybody's ever  
19 played line. I played quarterback, myself. But  
20 you're banged every play.

21 Q Right. I was a lineman in high school  
22 and college, so, I understand that.

23 A You understand you're hit pretty much  
24 every play. He played guard, tackle, and, like  
25 I said, he long snapped, too.

Page 16

1 Q Okay. To your knowledge, did Josh try  
2 to pull himself out of the game or notify any of  
3 the coaches that he was hit really hard?

4 A Not to my knowledge.

5 Q Okay. And so, then, I guess you're  
6 saying he was vomiting and things, at half time?

7 A Correct.

8 Q And then, during the third quarter --

9 A This happened minutes after the game  
10 began. I mean --

11 Q Okay. So, very early in the third  
12 quarter?

13 A Yeah. And, for some reason, our  
14 principal was on the field the third quarter.  
15 He wasn't there the whole game, until the third  
16 quarter.

17 Q Okay.

18 A When the third quarter started, he was  
19 out there, also.

20 Q And I know you mentioned that the  
21 police got involved. Was Josh arrested or  
22 anything?

23 A No. We were asked to leave. And I  
24 asked why. We were told that he was the center  
25 of the aggression or something. I don't

Page 17

1 understand that.

2 And, during this whole time, I did not have  
3 the principal, I did not have Tim Pitchford or  
4 anybody in there. It was just my son, myself  
5 and the police.

6 Q But Josh wasn't arrested and charged  
7 with anything?

8 A No, sir.

9 Q Okay. After the game, was he arrested  
10 for anything related to the game?

11 A No, sir.

12 Q Okay. Were there any type of legal  
13 procedures started, because of his actions at  
14 the game?

15 A Yes.

16 Q And could you just generally describe  
17 those for me, please?

18 A I'm not sure what they charged him  
19 with.

20 THE WITNESS: What did they charge him  
21 with?

22 MR. NEWMAN: Well, you have to just  
23 answer what you know.

24 A I don't know.

25 Q Okay. But there was some type of --

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1 A Correct.

2 Q -- procedures? Okay. Let's talk  
3 about Josh's treatment after the game. Did  
4 y'all take him to the emergency room or anything  
5 like that?

6 A We did not know, at the time, that he  
7 had been, you know, sick. We knew he was  
8 visibly upset, and we really thought that was  
9 what was wrong with him. He was very sleepy.  
10 He was, you know, visibly upset, and sleepy.

11 So -- you know. And we were upset, also,  
12 because, you know, we were -- you know, "You've  
13 got to go now. You've got to leave."

14 There wasn't no discussion. Wasn't nobody  
15 there to help us. It was like -- you know. And  
16 I couldn't talk to anybody.

17 The police were like, "You've got to go  
18 now."

19 And they escorted us from the field.

20 Q When y'all left -- and the game was at  
21 Columbia? Correct?

22 A Correct. We went home.

23 Q Y'all just went straight home?

24 A Correct.

25 Q Did you take Josh to a doctor?

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1 A Actually, we didn't -- when we found  
2 out he was sick, he went that Monday. We  
3 scheduled a thing Monday.

4 Q All right. And where did you take  
5 him, sir?

6 A My wife could tell you more about the  
7 doctor. It was the pediatrician he normally  
8 goes to.

9 Q Do you remember which group that is?

10 A It's the one right beside Winn Dixie.  
11 I don't -- she keeps up with that more than I  
12 do.

13 Q But would that be the doctor y'all  
14 identified --

15 A Yes, sir.

16 Q -- in the discovery? Okay. Were  
17 there any other medical doctors that saw Josh?

18 A He had a CAT scan, but I can't confirm  
19 it was a different -- I'm sure it was a  
20 different doctor, but --

21 Q And I'm guessing the CAT scan was a  
22 result of this doctor visit?

23 A Correct.

24 Q Okay. Do you know the results of that  
25 CAT scan?

Page 20

1 A I'm not a medical professional, so, I  
2 couldn't say.

3 Q Did y'all have to go back for any  
4 special treatment or anything, because of the --

5 A He was not allowed to have any  
6 physical activities for over 30 days.

7 Q And that was prescribed after the CAT  
8 scan?

9 A By the doctor.

10 Q And so, the doctor at the pediatric --  
11 I think it's Dothan Pediatrics?

12 A I think it is, too.

13 Q So, the doctor there was the only  
14 medical doctor that saw Josh, concerning the  
15 incident?

16 A As far as I know, yes. I'm not  
17 confirming that, because I don't --

18 Q But, I mean, you, yourself, didn't  
19 take him to any other doctor?

20 A Huh-uh. During this time we were  
21 doing the doctor visits, they ordered a -- at  
22 school, they wanted to have a -- I don't know  
23 what the call it. Some kind of disciplinary  
24 hearing or something.

25 And the principal was wanting to know why



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1 he was not there. And I told him he was having  
2 the CAT scans done and all this.

3 But, I had to handle all that, while he was  
4 doing doctors' appointments.

5 Q All right. And did Josh see any other  
6 kind of professional, or counselors, or --

7 A Yes, he did.

8 Q -- anything like that? And do you  
9 know who he saw, sir?

10 A Alan Freed. I believe it's F-r-e-e-d,  
11 I believe. I'm not sure.

12 Q And where is he located? Or where is  
13 his office located?

14 A It's in Enterprise. I don't have the  
15 specifics.

16 Q Okay. Now, had Josh ever visited Mr.  
17 Freet's services, before this incident?

18 A No, sir.

19 Q And do you remember, roughly, how  
20 close in time to the incident Josh visited with  
21 Mr. Freet?

22 A I'd be guessing. I'm got going to  
23 give an exact. Probably two weeks to a month.

24 Q Okay. So, it was after he went to the  
25 Dothan Pediatrics?

Page 22

1 A I believe so. Or -- or it was after  
2 that, or it was after the board hearing. I  
3 can't remember exactly. I believe it was before  
4 the board hearing.

5 Q Okay.

6 A I'm sure it was.

7 Q And do you know how many times Josh  
8 visited Mr. Freet?

9 A I do not.

10 Q Was it more than one?

11 A Yes. I believe so.

12 Q Do you think it was more than five?

13 A I couldn't say.

14 Q Couldn't say?

15 A Couldn't say.

16 Q And I think we've kind of went over  
17 this, but, if you don't mind, just in your own  
18 words, explain for me what you think the Houston  
19 County Board of Education did wrong and the  
20 coaches or administrators at Wicksburg did  
21 wrong, that led to this lawsuit?

22 A I don't understand, on a physical  
23 game, when somebody bumps someone, and it  
24 becomes a violent action, with a player.

25 Because, I've been around football all my

Page 23

1 life. I've announced football games, there at  
2 Wicksburg. I've seen worse than what happened  
3 that night, at a Wicksburg football game.

4 I don't understand how it escalated or why  
5 it escalated to that -- to where it went. It  
6 just doesn't make any sense.

7 As far as the board doing what they did,  
8 whenever I went to the meeting at the school, I  
9 asked for film. The principal told me, there's  
10 no film available. Go to the board of  
11 education.

12 I took my attorney there. They've never  
13 watched the film. No film available. Then,  
14 months after, all of a sudden, we get film.

15 I don't understand why they're in such a  
16 hurry for expulsion, without looking through all  
17 the evidence, to make sure all the facts were  
18 there.

19 Q Is there anything else that you're --  
20 any other actions that were the basis of your  
21 suit, sir? Or does that basically cover  
22 everything?

23 A Meaning?

24 Q Any other specific things that you  
25 claim the school board did wrong, or anything

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1 they violated, you think they violated,  
2 concerning Josh?

3 A I'm not sure I understand what you're  
4 saying.

5 Q Well, I think you basically got it. I  
6 was just wanting to know why you felt like  
7 bringing the lawsuit?

8 A Okay.

9 Q And have you explained that?

10 A I believe so.

11 Q Now, let me ask you about this film.

12 You talked earlier about that you had seen on  
13 tape, that it was Josh's shoulder pad that hit a  
14 coach in the eye and knocked his glasses off,  
15 and not a fist?

16 A Correct.

17 Q And which tape would that be?

18 A Well, we asked to receive film. We  
19 received two films. One film was blank. We  
20 asked why. Didn't know. I don't know why they  
21 would send us a blank film.

22 The other film we got, that we acquired --  
23 I guess it come from Houston County, because it  
24 looked like from the guy that was shooting in  
25 the end zone, and it showed the incident.

Page 25

Page 27

1 Q Okay. So, this was -- was this a --  
 2 A This was a game film.  
 3 Q And this was the game film that the  
 4 Houston County Board gave to you?  
 5 A Through your -- through my attorney, I  
 6 guess.

7 Q So, it's not a tape that you had --  
 8 A We asked for tapes, specifically,  
 9 because we knew what happened, and it was  
 10 getting twisted around.

11 And it was also, there's no tape. Didn't  
 12 have no tape. It didn't show anything.  
 13 Mr. Murray quoted me at school, the next --  
 14 whenever I had to talk with him that Monday or  
 15 Tuesday, that they looked at their tape, and  
 16 there was nothing on it.

17 And I said, "Well, we'd like to look at  
 18 it."

19 And so, I was never produced a tape until  
 20 my attorney asked for a tape.

21 Q But the tape that you say showed the  
 22 shoulder pad bumping the coach --

23 A Correct.

24 Q -- was given to you, through your  
 25 attorney? Or given to --

1 the ball game?

2 A No, sir.

3 Q All right. And earlier, you had  
 4 mentioned the hearing, concerning which road to  
 5 take, as far as discipline for Josh. And were  
 6 you allowed to attend that hearing?

7 A The one at the school, yes. That was  
 8 the first one. That was the principal's  
 9 recommendation.

10 Q Okay. Let's walk back through that.  
 11 So, there was more than one hearing or meeting?

12 A There was that disciplinary meeting,  
 13 with the school. And then, my understanding of  
 14 the way they work it, then, they send it to the  
 15 board, and then, the board makes their decision.

16 Q So, did you get to attend -- or did  
 17 you attend either one of those meetings, or both  
 18 of them?

19 A Correct.

20 Q I'm sorry. Did you attend the  
 21 principal's meeting?

22 A Yes.

23 Q And did you attend the board meeting,  
 24 as well?

25 A Yes.

Page 26

Page 28

1 A Correct. Through Mr. Segrest's  
 2 office, I believe.

3 MR. WALDING: Let me just interject,  
 4 for a second. I'm trying to sit  
 5 over here and not say anything.  
 6 It's real important, for our  
 7 record, that you let Mr. Moody  
 8 ask the questions, and then, you  
 9 respond to the questions, because  
 10 there's too much of both of y'all  
 11 talking at the same time.

12 THE WITNESS: I'm sorry.

13 MR. WALDING: And we're not going to  
 14 be able to understand what was  
 15 said here today, unless we have  
 16 one person speaking and stop and  
 17 another person speaking.

18 THE WITNESS: I apologize.

19 MR. WALDING: If we could do that,  
 20 that would be helpful.

21 THE WITNESS: Uh-huh.

22 Q And I'm sorry about that. I'm bad  
 23 about doing that, myself.

24 But, you don't have any other tapes from  
 25 friends or spectators or anything like that, of

1 Q Okay. Were you allowed to put on your  
 2 side of the story, and any evidence to support,  
 3 on behalf of Josh, at the principal's meeting?

4 A Yes. Mostly -- it was done within,  
 5 like, a quick span. It wasn't like they give  
 6 you time to prepare. They call you that morning  
 7 and say, we want you here in this meeting for so  
 8 and so.

9 Josh had returned to school Tuesday,  
 10 because he had went to the doctor that Monday.  
 11 They made him sit in the library, and wouldn't  
 12 let him go to class.

13 Q How soon, if you can remember, was  
 14 this principal's meeting after the football  
 15 game?

16 A Tuesday morning.

17 Q So, it was that Tuesday morning?

18 A Uh-huh.

19 Q Did an attorney attend that  
 20 principal's meeting on your behalf?

21 A No, sir.

22 Q Any medical doctors or counselors?

23 A No, sir.

24 Q So, would it have --

25 A I took a friend with me.

Page 29

1 Q Who did you take, sir?

2 A I can't think of her name. It's Ms.

3 Nancy Booth. And she was not at the game that

4 night. I took her on purpose, because she

5 wasn't there.

6 Q So, at this principal's meeting, on

7 Josh's behalf, there was you and a Ms. Nancy

8 Booth, but Ms. Booth was not at the game?

9 A Correct.

10 Q What was the purpose in bringing Ms.

11 Booth?

12 A To make sure that -- you know, of

13 course, I was upset -- that I would remain, you

14 know, calm, and that someone besides me was

15 there, that wasn't a family member, with us.

16 Q Was Ms. Booth -- did she say anything

17 at the meeting?

18 A Yes, she did.

19 Q Okay. What was the general statement

20 that she --

21 A My understanding of the meeting is

22 that it's a disciplinary board, which consists

23 of teachers. Also, during that meeting, there

24 was two coaches involved on the disciplinary

25 board. Which didn't seem right, since this was

Page 30

1 an incident with them.

2 But, as we get through about the middle of

3 it, Mr. Murray said he's already made up his

4 mind, that he was going to recommend expulsion,

5 without a chance to graduate. Or long-term --

6 how did he pronounce that? Long-term

7 alternative school, without a chance to graduate

8 with his class.

9 And Ms. Booth, after they said that, said,

10 "Think about what you're doing. You've got a

11 kid that's never been in trouble, had never had

12 any disciplinary action before in his life, here

13 at this school, and you're taking away his

14 senior year, to graduate with his class."

15 And that's what she interjected and said,

16 and asked them all to think about that.

17 Q I want to ask you a couple of

18 questions about that. First of all, Ms. Booth

19 was just generally saying, in the past, Josh has

20 been --

21 A Correct.

22 Q -- a good kid? And she didn't -- she

23 did not attend that football game?

24 A No, sir.

25 Q And, to your knowledge, had she

Page 31

1 watched any tape of that game or anything,

2 before that hearing?

3 A No, sir. Not to my knowledge.

4 Q Okay. Well, let me ask you about the

5 -- you said there were some coaches on that

6 disciplinary board. Do you remember which

7 coaches --

8 A Yes, sir.

9 Q -- were on the board?

10 A Josh Cox and Coach Whitten.

11 Q And were these both football coaches,

12 or --

13 A Correct.

14 Q And was either Coach Josh Cox or Coach

15 Whitten involved in the incident at the football

16 game? And, by that, I mean, were they one of

17 the ones that Josh supposedly hit or bumped

18 into?

19 A No, sir.

20 Q Okay. And so, they weren't his

21 position coaches or --

22 A No, sir.

23 Q Who else was at this meeting, other

24 than you and Ms. Booth and the disciplinary

25 committee and Mr. Murray?

Page 32

1 A Numbers of teachers. I can't name

2 them all. I have a list in a file at the house.

3 Q Could you get that to us, please, sir?

4 If we don't already have it?

5 A You should already have it. The board

6 should have it.

7 Q And were those teachers there on

8 behalf of Josh, or were they just there as part

9 of their duties?

10 A There as part of their duties.

11 Q And this was a board hearing?

12 Correct?

13 A Yes.

14 Q And who all attended the board hearing

15 on Josh's behalf?

16 A Mr. Freed and my attorney and my

17 family.

18 Q And could you be a little more

19 specific on the family?

20 A It would be all my -- my wife and my

21 kids. My sister was there.

22 Q What was her name?

23 A Peggy Beatty.

24 Q I'm sorry? Could you --

25 A Peggy Beatty. There was others, but I

Page 33

1 can't remember.

2 Q Okay. Are there a lot of others? Or  
3 just a couple?

4 A No, not a lot.

5 Q Okay. And were you allowed to speak  
6 on your son's behalf at this hearing?

7 A I don't think I did -- yes, I did.

8 They had almost like a -- you know, where you go  
9 set up --

10 Q Okay. And Mr. Freet, the counselor,  
11 was he allowed to present information on Josh's  
12 behalf?

13 A I believe so.

14 Q And was your attorney able to argue on  
15 Josh's behalf?

16 A Yes, sir.

17 Q All right. And did your wife or your  
18 sister or any of these other people that  
19 attended, were they able to make statements on  
20 Josh's behalf, or did they want to make  
21 statements on Josh's behalf?

22 A I can't remember if they were given  
23 that opportunity, at that hearing.

24 Q But you know that you and Mr. Freet  
25 and your attorney were able to --

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1 A Because we were asked to.

2 Q Okay. So, the board asked you to  
3 present arguments on --

4 A I'm thinking, yes, sir.

5 Q Just so this will be clear, you, Mr.  
6 Freet and your attorney were able to present  
7 information on Josh's behalf, at the board  
8 hearing?

9 A Yes.

10 Q Okay. And nobody -- no board member  
11 or anyone associated with the school board  
12 stopped y'all from presenting arguments on  
13 Josh's behalf?

14 A No, sir. Not that I can recall.

15 Q And then, what was the ultimate  
16 decision at that board hearing?

17 A They voted to expel Josh.

18 Q And this all happened in -- was it in  
19 September, the same month as the football game?  
20 Or would it have been --

21 A I'm not positive on a date. We've got  
22 files on it, but I'm not positive.

23 Q But it would have been the fall  
24 semester of his senior year?

25 A Correct.

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1 Q And, Mr. Davis, what did y'all do,  
2 after Josh was expelled, to continue his  
3 education?

4 A Of course, there was no option of  
5 putting him in a public school, because they're  
6 not going to take him, with an expulsion. I  
7 live in that county, so, there was no way to get  
8 him in anywhere else.

9 So, I ended up finding a private school,  
10 Dixie Academy, in Louisville, and he ended up  
11 moving there with my sister, to attend there.

12 Q And was that your sister --

13 A Peggy Beatty.

14 Q Peggy Beatty? And do you recall an  
15 approximate date as to when Josh started  
16 attending there?

17 A No, sir, I do not.

18 Q Would it have been --

19 A Within that month.

20 Q Okay. So, it was the fall semester?

21 A Yes, sir. He was able to -- he was  
22 able to play basketball.

23 Q Okay. And was there any certain  
24 reason y'all decided on Dixie Academy, as  
25 opposed to any other private school?

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1 A Financially, it was my only option.

2 Q And roughly how far is Louisville from  
3 here?

4 A From my house, around -- I'm guessing  
5 46 miles.

6 Q And how far was Louisville and Dixie  
7 Academy from your sister's residence?

8 A Approximately two miles.

9 Q Do you recall approximately -- first,  
10 let me ask you, how many semesters did Josh  
11 attend at Dixie?

12 A It would be from that incident until  
13 he graduated. So, I couldn't really say. I  
14 mean, I don't know how their system --

15 Q All right. Did he graduate the same  
16 year he began attending there?

17 A Correct.

18 Q Or the same school year?

19 A Yes. Correct.

20 Q And I believe you provided us with an  
21 estimate of the cost for him attending Dixie.  
22 Do you remember what that was?

23 A I do not. Without looking at it.

24 MR. MOODY: I think I've got it. Can  
25 we mark this as Defendant's 1 and



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1 this as Defendant's 2, please,  
 2 sir?  
 3 (Thereupon, Defendant's Exhibit No. 1  
 4 and No. 2 marked for identification.)  
 5 Q All right. Mr. Davis, we're going to  
 6 have to kind of flip back and forth, for these.  
 7 A Okay.  
 8 Q But, if you'll recall, Defendant's 2  
 9 is a set of written questions, interrogatories,  
 10 that we sent earlier in this case, and  
 11 Defendant's 1 is y'all's responses that we got on  
 12 your behalf. And if you will turn to the -- I  
 13 think it's the third page -- or, I'm sorry --  
 14 the fourth page of Defendant's No. 1.  
 15 A Okay.  
 16 Q Number 11. There's a breakdown of the  
 17 cost for Dixie Academy. Does that look  
 18 accurate?  
 19 A Yes, sir.  
 20 Q All right. And you recognize that  
 21 Defendant's No. 2 as the questions that we sent  
 22 to you earlier?  
 23 A Yes.  
 24 Q And do you recognize Defendant's No. 1  
 25 as --

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1 A The answers.  
 2 Q -- y'all responses?  
 3 A Yes, sir.  
 4 Q Okay. And is that your signature on  
 5 the bottom of page four of Defendant's No. 1?  
 6 A That is correct.  
 7 Q All right. I'm sorry about that.  
 8 But, back to number 11, then.  
 9 Your estimate of \$10,280.00, would be for  
 10 Josh finishing the fall semester, and then,  
 11 completing the spring term at Dixie Academy?  
 12 A Yes, sir.  
 13 Q Okay. Do you remember the approximate  
 14 date of when he graduated from Dixie?  
 15 A It was the end of May. I can't  
 16 remember the exact date.  
 17 Q And, in your answer to number 11,  
 18 there, I had a couple of questions about some of  
 19 the breakdowns. You have \$1200.00 listed as  
 20 expenses for going to Josh's ball games and  
 21 entry and food. Could you explain --  
 22 A Why?  
 23 Q -- that to me?  
 24 A Yeah. When you play at a private  
 25 school, as with Dixie, I would have to go almost

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1 to Tuscaloosa, Auburn. Whereas, when Josh was  
 2 playing basketball at Wicksburg, the furthest I  
 3 might travel would be Troy or somewhere of that  
 4 nature.  
 5 Q If you could, for me, on number 11,  
 6 could you specifically point out which of those  
 7 expenses were directly related to Josh's  
 8 academic education, and not the athletics and  
 9 the extracurricular stuff?  
 10 A I guess everything except the 1200,  
 11 then.  
 12 Q Okay. Now, the \$200.00 for gas, would  
 13 that be Josh's travel from your sister's house?  
 14 A That would be traveling back and forth  
 15 for him to come home. He tried to come home  
 16 every weekend.  
 17 Q So, that would be from Louisville to  
 18 Wicksburg? Correct?  
 19 A And his gas to go to school and do  
 20 what he had to do at school.  
 21 Could I correct something on that, also?  
 22 Q Yes.  
 23 A Also, when he was at school at Dixie,  
 24 it's a private school, and, when you have a ball  
 25 game, you don't ride a bus. In most cases, you

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1 take your own vehicle. And that's not only  
 2 going from -- that would be traveling from  
 3 Louisville to Auburn, a lot of times, in his  
 4 car, to go to a ball game.  
 5 Q So, that would be included in the  
 6 \$1200.00, there?  
 7 A Correct.  
 8 Q All right. Let me ask you a question  
 9 about the room and board. He was staying with  
 10 your sister, Peggy? Correct?  
 11 A That's correct.  
 12 Q And y'all were paying her \$400.00 a  
 13 month?  
 14 A We were helping her as much as we  
 15 could, with food and whatever he needed.  
 16 Q Okay. And I'm not real familiar with  
 17 Dixie. It doesn't have dormitories or anything,  
 18 on campus?  
 19 A No, sir.  
 20 Q All right. Mr. Davis, if you could go  
 21 back over some of that again, and let me clarify  
 22 one of my previous questions. Could you --  
 23 let's just go down the list, there, on number  
 24 11, on Defendant's No. 1, and could you tell me  
 25 whether each item you list was directly related

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1 to Josh's academic work at Dixie or not?  
 2 A Clarify what you mean?  
 3 Q I mean, could you go -- the \$400.00 a  
 4 month is or is not for his academic expenses?  
 5 A I would say yes. He had to live  
 6 there.  
 7 Q But that was not tuition or board or  
 8 anything like that?  
 9 A No. That's part of his having to be  
 10 away from home. I consider it to be.  
 11 Q Okay. And then, the \$200.00 monthly,  
 12 for gas. That was related to his travel back  
 13 and forth --  
 14 A And to school.  
 15 Q But all of that wouldn't be to school?  
 16 Correct?  
 17 A No. But it would be -- considering he  
 18 had to be away from home, I still consider it  
 19 part of his -- have to be his academics.  
 20 Because he was not allowed to be at his home.  
 21 Q And your sister's house was  
 22 approximately two miles from the school?  
 23 A Correct.  
 24 Q So, Josh's trips to and from school  
 25 every day, would be roughly four miles, round

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1 trip?  
 2 A Correct.  
 3 Q Then, the 160-dollar item for lunch  
 4 and break food, did you consider that directly  
 5 related to his academics?  
 6 A I would, even if he was at home. That  
 7 would be the same.  
 8 Q And did Dixie Academy have a lunch  
 9 room?  
 10 A They had a -- I would call it -- not a  
 11 cafeteria, but, you could order food. They had  
 12 food cooked there. It wasn't really a  
 13 cafeteria.  
 14 Q Okay. So, you didn't have to leave --  
 15 Josh didn't have to leave campus, to --  
 16 A Correct.  
 17 Q -- go purchase food? And then, the  
 18 \$2,000.00 tuition, you would consider --  
 19 A Yes.  
 20 Q -- related to the academics? And the  
 21 \$500.00 for the books?  
 22 A Correct.  
 23 Q All right. And then, the 500-dollar  
 24 graduation expenses. Could you explain those  
 25 for me?

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1 A What any graduate has, during their  
 2 graduation year.  
 3 Q Okay. Would that be --  
 4 A Cap, gown, whatever.  
 5 Q Invitations?  
 6 A Correct.  
 7 Q Things of that nature? But was that a  
 8 required expense, to obtain a degree?  
 9 A You have to participate in the  
 10 exercise.  
 11 Q Which of the expenses listed in number  
 12 11 would you not have had to pay for Josh, if he  
 13 had completed the school year at Wicksburg?  
 14 A Let's see. Not had to pay?  
 15 Q Yes, sir?  
 16 A Okay. The 400 monthly. The gas, I  
 17 probably would have still had some, but not as  
 18 much.  
 19 Q Would you have an estimate as to what  
 20 you would have had?  
 21 A No.  
 22 Q Okay.  
 23 A Tuition, I wouldn't have had to pay,  
 24 or the books.  
 25 Q Would you have had to have paid the

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1 \$1200.00 for the ball games?  
 2 A No.  
 3 Q And would you have paid \$160.00  
 4 monthly for lunch and break food?  
 5 A Probably would have, yes. Or more.  
 6 The way he eats.  
 7 Q And would you have still had to pay  
 8 the 500-dollar graduation expenses, if Josh had  
 9 continued at Wicksburg?  
 10 A Probably not as much.  
 11 Q Do you have an estimate what you would  
 12 have had to pay?  
 13 A No, I do not.  
 14 Q And let's move on, Mr. Davis, to  
 15 another one your claims, that Josh suffered from  
 16 psychological and emotional problems, after the  
 17 incident at the football game. Could you  
 18 describe those problems for me, sir?  
 19 A Meaning?  
 20 Q What psychologically and emotionally  
 21 changed after the incident?  
 22 A I'm not a doctor, so, I couldn't  
 23 really answer the specifics of that.  
 24 Q Okay. Surely there was something had  
 25 to change, for you to claim that in your



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1 complaint?

2 A Well, my attorney wrote up the  
3 complaint.

4 Q Okay. Do you have any evidence or  
5 information to support any claim that Josh is  
6 suffering from psychological or emotional  
7 problems?

8 MR. NEWMAN: To your knowledge.

9 Q Yes. To your knowledge?

10 A That I know of? I know nothing of --  
11 you know, I don't know, personally. I mean,  
12 like I say, I'm not a doctor or anything. So, I  
13 don't know.

14 Q All right. And, just in your opinion,  
15 is Josh suffering from any psychological or  
16 emotional problem?

17 A Now, or --

18 Q Well, either right after the incident  
19 or continuing now?

20 A Meaning? I mean, here we go to  
21 meaning again.

22 Q Is Josh suffering from depression,  
23 because of the incident, or --

24 A I'm not a doctor. I couldn't say.

25 MR. MOODY: Okay. Mr. Davis, I forgot

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1 to mention this earlier, but, if  
2 you want a break or need to go to  
3 the restroom or get a drink or  
4 anything, just let us know and we  
5 can stop.

6 If we could mark that as  
7 Defendant's 3?  
8 (Thereupon, Defendant's Exhibit No. 3  
9 marked for identification.)

10 Q Mr. Davis, do you recognize  
11 Defendant's 3 as the complaint that was filed on  
12 your behalf in this lawsuit?

13 A Yes, I do. It's the complaint my  
14 attorney filed.

15 Q And could you flip to the third page,  
16 paragraph number 17, and could you read that for  
17 me, please, sir?

18 A It says, "Joshua Davis suffered  
19 psychologically and emotionally by Defendant's  
20 conduct in that he was humiliated and  
21 stigmatized before his community as a  
22 troublemaker worthy of expulsion."

23 Q And, to your knowledge, is there any  
24 evidence to support that claim, sir?

25 A I mean, this was drawn up by my

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1 attorney. I'm sure we have a claim.

2 Q But, do you personally know of  
3 anything?

4 A Meaning?

5 MR. WALDING: He's asking if you know,  
6 Mr. Davis.

7 THE WITNESS: Well, I'm trying to  
8 answer it honestly. That's what  
9 y'all asked me to do.

10 MR. WALDING: He wants to know what  
11 you know. Only what you know.

12 Q Yeah. I'm not trying to trick you or  
13 anything. I'm just wondering if you had any  
14 information to support that claim, yourself?

15 A As far as doctors, or --

16 Q Anything?

17 A I mean, we have a doctor's statement,  
18 you know, so --

19 Q And do you know which doctor that's  
20 from?

21 A Probably Dr. Freed.

22 Q And he was the counselor? Correct?

23 A That's correct.

24 Q But, other than Mr. Freet's statement,  
25 you don't have any other evidence, that you know

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1 of?

2 A That I know of, no.

3 Q Okay. And while we have the complaint  
4 out, Defendant's 3, there, could we look at  
5 paragraph number 13, please, sir? And, if you  
6 don't mind, could you read the allegations in  
7 paragraph 13 for the record, please, sir?

8 A "Staff of the Wicksburg High School  
9 where Joshua attended before his expulsion were  
10 the targets of intentional acts by students more  
11 erroneous (sic) than Joshua's unintentional  
12 conduct, but those students received less harsh  
13 punishment."

14 Q Okay. And do you have any information  
15 to support that statement, sir?

16 A My wife has more than I have.

17 Q Okay. But, to your knowledge, do you  
18 know of any situation where students or staff at  
19 Wicksburg were targeted by intentional acts that  
20 were more egregious than Josh's?

21 A Say that again, please?

22 Q All right.

23 A Say that again, sir.

24 Q Basically, do you know of any events  
25 at Wicksburg High School, where a teacher or a

1 staff member was hit or attacked or anything, by  
2 a student --

3 A I can't say for positive, because I  
4 wasn't --

5 MR. WALDING: Again, if you'd let him  
6 finish his question before you  
7 start answering. I think --

8 THE WITNESS: I thought I did.

9 Q Sometimes I lag behind and talk a  
10 little slow. But, do you know of any incidents  
11 at Wicksburg High School, where a teacher or a  
12 staff member was hit or intentionally pushed,  
13 shoved, anything of that nature, by a student,  
14 but that student received less punishment than  
15 Josh?

16 A I know of stuff. But, as far as me  
17 being there, I wasn't there.

18 Q Okay. If you could look back at, I  
19 believe it's Defendant's No. 1, on the top, it  
20 will say "Plaintiff's answers to first  
21 interrogatories."

22 A Is that it, there?

23 Q Yes, sir. Flip over to paragraph  
24 number 9. Maybe this can refresh your memory.  
25 And we're going to need to look at Defendant's

1 the high school?

2 A He may have been in junior high.

3 Q And do you know what C. did, that  
4 amounted to wrongly touching?

5 A I do not.

6 Q Okay. And how did you find out about  
7 this event between Judy Joiner and C. L.?

8 A I believe Ms. Joiner's daughter  
9 teaches at the school that my children are at.

10 Q And so, would Ms. Joiner's daughter  
11 have told you this?

12 A No. Not me.

13 Q Would he have told your wife?

14 A Yes.

15 Q And then, there's another instance  
16 described there, where a Ms. Sanders was kicked  
17 in the buttocks by a high school student named  
18 L. And Ms. Sanders told the vice-principal, Ms.  
19 Smith, about the incident, and Ms. Smith simply  
20 told L. to stay away from Ms. Sanders.

21 A Correct.

22 Q That's your response, there? Did you  
23 personally know about this incident between Ms.  
24 Sanders and L.?

25 A Through her son.

1 No. 2. That's this document right here. It's  
2 our question number 9.

3 And, in Defendant's No. 2, our  
4 interrogatory stated, "Please describe in detail  
5 every instance of an educator at Wicksburg High  
6 School being targeted for intentional acts by a  
7 student, but that student receiving less  
8 punishment than Joshua Davis, as you claim in  
9 paragraph 13 of your complaint."

10 And then, number 9, on Defendant's No. 1,  
11 is that your response to that interrogatory?

12 A That's correct. But, again, I  
13 reiterate that I was not there.

14 Q Okay. Well, let me ask you about your  
15 responses in number 9. You say that Judy Joiner  
16 was wrongly touched by C. L. and that C. L. got  
17 one week of alternative school in 2005 or 2006.  
18 Who was Judy Joiner, sir?

19 A She's a teacher at Wicksburg.

20 Q Do you know what grade she teaches,  
21 or --

22 A They swap around, so, I'm not sure.

23 Q Okay. And do you know C. L., sir?

24 A No, sir, I do not.

25 Q But you believe he was a student at

1 Q And that would be Ms. Sanders' son?

2 A Correct.

3 Q And do you know Ms. Sanders' first  
4 name?

5 A I do not. Her son is a teacher at  
6 Wicksburg.

7 Q And is Ms. Sanders a teacher at  
8 Wicksburg?

9 A Custodian.

10 Q Okay. And what is Ms. Sanders' son's  
11 name?

12 A Oh, gosh. I can't recall his first  
13 name, at the moment.

14 Q But he is a teacher at Wicksburg?

15 A That is correct.

16 Q Is his last name Sanders, as well?

17 A Yes.

18 Q Do you know how long Mr. Sanders has  
19 taught at Wicksburg?

20 A I would say between eight and ten  
21 years. That's hearsay. But I believe he's been  
22 there that long.

23 Q And how did it come about that Mr.  
24 Sanders, the teacher at Wicksburg, told you  
25 about someone kicking his mother?

1 A Went to church together.

2 Q Okay. And do you know the last name  
3 of L., the student involved in this incident?

4 A I do not.

5 Q Okay. And are those the only two  
6 instances that you're aware of that fit the  
7 description from our interrogatory number 9, in  
8 Defendant's No. 2? Document No. 2?

9 A Correct.

10 Q All right. Did you or your wife read  
11 the 2005 and 2006 student code of conduct, for  
12 the Houston County -- or produced by the Houston  
13 County Board of Education?

14 A Yes.

15 Q Did you read it?

16 A Yes.

17 Q Okay. And did you sign the back cover  
18 of the handbook, that requires a parent's  
19 signature, and then, return that sheet to the  
20 school?

21 A It would have been either me or my  
22 wife.

23 Q But you or your wife signed and  
24 returned that?

25 A That is correct.

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1 Q Did Josh read the 2005-2006 student  
2 code of conduct?

3 A You'll have to ask him.

4 Q Did he sign that sheet on the back  
5 page, and return it to the school?

6 A There again, I'd say you'd have to ask  
7 him.

8 Q But you know that either you or your  
9 wife did?

10 A That's correct.

11 Q Okay. And, Mr. Davis, were you aware  
12 of the possible consequences for the offenses  
13 that the disciplinary committee charged Josh  
14 with?

15 A Meaning?

16 Q Were you aware that he could be  
17 expelled for what they were charging him with?

18 A If what happened the way it happened,  
19 no. If it happened the way they said it  
20 happened, yes.

21 Q Okay. So, as the disciplinary  
22 committees were charging Josh with their view of  
23 how things happened at the game, you were aware  
24 that expulsion was one possible disciplinary  
25 procedure available to them?

1 A Correct.

2 MR. MOODY: Okay. Let's take a break.

3 (Recess in deposition.)

4 Q Mr. Davis, I want us to look at this  
5 document here, Defendant's No. 4.

6 (Thereupon, Defendant's Exhibit  
7 No. 4 marked for identification.)

8 Q And does this document look familiar  
9 to you? Do you recognize that?

10 A Yes.

11 Q And could you read for me what that  
12 document is titled, sir?

13 A You mean here? "Initial Disclosures"  
14 or --

15 Q Yes. Right up under the caption?

16 A (A) is, "Individuals believed to have  
17 personal factual knowledge about the and/or  
18 issues involved in this matter."

19 Q Okay. And that is under the  
20 "Plaintiff's Initial Disclosures"? Correct?

21 A Correct.

22 Q All right. And, Mr. Davis, I want to  
23 go through each name here, that you have listed,  
24 under (A), and I would like for you to tell me  
25 the person's name, and then, what information

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1 that you know of that they possess, concerning  
2 this incident?

3 A Okay.

4 Q Well, starting with number 2, Debbie  
5 Davis?

6 A Pertaining as to what, now?

7 Q What does Ms. Davis know about the  
8 incident at the football game?

9 A She was there.

10 Q And would Ms. Davis's testimony about  
11 the incident be the same as what you have  
12 testified to today?

13 A Yes, I believe so.

14 Q And then, number 3 is Josh Davis.

15 We're going to take his deposition later today.

16 But, do you have any reason to believe that  
17 Josh's version of events on the night of that  
18 football game would be any different than yours?

19 A Other than he probably don't remember  
20 a lot of it.

21 Q Okay. But, what your allegations are,  
22 would match his recollection of the game?

23 A Correct.

24 Q Okay. And who is Ms. Susan Sanders?

25 A That would be the Ms. Sanders in

1 question a while ago. That's her first name.

2 Q So, would Ms. Susan Sanders have any  
3 information about the football game itself?

4 A No.

5 Q So, her information would concern an  
6 incident with a student --

7 A Correct.

8 Q -- at Wicksburg High School? And  
9 C. L. number 5?

10 A That's the student at the school.

11 Q Was he the student involved in the  
12 incident with Ms. Sanders?

13 A It's either him or L. I can't  
14 remember exactly the two.

15 Q But he was involved in some type of  
16 incident?

17 A Correct.

18 Q Does C. L. have any information about  
19 the football game?

20 A Not to my knowledge.

21 Q Okay. And could you identify Mr.  
22 Roger Dale Sanders?

23 A That is the teacher at Wicksburg.

24 Q And his mother is Ms. Susan Sanders?

25 A Correct.

1 Q And Mr. Roger Dale Sanders attends  
2 church at your church?

3 A And also a teacher at Wicksburg.

4 Q But he does attend church with you?  
5 Correct?

6 A He still attends that church. I do  
7 not.

8 Q Okay. Did y'all both attend the same  
9 church, at the time of the football game?

10 A Correct.

11 Q Mr. Davis, can you describe for me the  
12 conversation that you had with Mr. Roger Dale  
13 Sanders, about this incident between C. and his  
14 mother, Susan Sanders?

15 A It was just a basic conversation,  
16 telling us what happened, and that there wasn't  
17 anything done about it.

18 Q Where did this conversation occur,  
19 sir?

20 A I believe it was at church. In  
21 between Sunday school and church.

22 Q Did you approach Mr. Sanders for this  
23 information, or is this something he volunteered  
24 to give you?

25 A Volunteered.

1 Q Was Mr. Sanders on any of the  
2 disciplinary committees, concerning Josh?

3 A I believe he was, at first. They  
4 changed it after -- some of them -- some of them  
5 signed and some of them didn't.

6 Q Okay.

7 A And I don't think I was given a whole  
8 list, when we were first there, of who all was  
9 there. Through the principal. I was given the  
10 -- I was given the signed version, afterwards.

11 Q Okay. Was Mr. Sanders present at  
12 either of the disciplinary meetings that you  
13 attended?

14 A The one at school, I believe he was.

15 Q Okay. And was Mr. Sanders a member of  
16 the disciplinary committee, at that meeting?

17 A I'm wanting to say yes, but I'm not  
18 positive, because, like I said, they didn't give  
19 me a list that day, I don't believe.

20 Q But you think he was a member?

21 A I do believe. There's quite a few.  
22 They call who they want. However they work it,  
23 I don't know.

24 Q Okay. I want us to look at one more  
25 document, here. And I believe that's

1 Defendant's Exhibit 5.

2 (Thereupon, Defendant's Exhibit  
3 No. 5 marked for identification.)

4 Q Mr. Davis, could you read for me the  
5 title of this document?

6 A "WHS Alternative School Committee."

7 Q All right. Mr. Davis, do you remember  
8 getting this document as part of a packet of  
9 initial disclosures that the school board  
10 provided you with?

11 A This is similar to the one I got. The  
12 first one I got did not -- the day that I went  
13 to the meeting, was not like this.

14 Q Okay.

15 A It didn't have James K. Murray, the  
16 principal. It had the old principal's name on  
17 it.

18 Q Okay. Do you remember getting a  
19 packet of information from the school board,  
20 shortly after this lawsuit was filed? It would  
21 have had labels down here in the bottom, of  
22 consecutively numbered pages?

23 A Remembering it, I don't. Did I  
24 receive it? That's what I'm saying, I'm not  
25 sure.



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1 Q Okay. Would your attorney know  
2 whether you received that information or not?  
3 THE WITNESS: Malcolm, do you know?  
4 MR. NEWMAN: That would be what you  
5 know.

6 A My wife has all this filed. I  
7 couldn't say correctly. If I looked at our  
8 files, I could tell you.

9 Q Well, for this document right here,  
10 that we're talking about, Defendant's No. 5,  
11 could you read for me, starting right here at  
12 the first paragraph, the decision of the board,  
13 and, to the best that you can make out, the  
14 signatures, the teachers that signed this  
15 recommendation?

16 A Okay. Yes. "Class III - C and Class  
17 III" -- I guess that's "Q offenses." It says,  
18 "Long-term alternative school for the rest of  
19 the school year. We also want him to attend  
20 counseling and we recommend his right to  
21 participate in graduation ceremonies be removed.  
22 We also would strongly recommend that the board  
23 review all materials and move toward expulsion."

24 Starla Brannon, James Murray, Kim Kirkland,  
25 Becky Birdsong, Rogers Sanders and Angela

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1 Brookman.

2 Q And Mr. Roger Sanders, that signed  
3 this document, would that be the same Roger  
4 Sanders that attends church with you and told  
5 you about this earlier incident, concerning his  
6 mother?

7 A That is correct.

8 Q Okay.

9 A But may I also add in here that, I was  
10 also told, by Mr. Sanders and a few others, that  
11 the top part of this paragraph was filled in  
12 later, after signatures.

13 Q Now, when did Mr. Sanders tell you  
14 that?

15 A We were told in confidence, at a  
16 church function, also.

17 Q Would that have been the same  
18 conversation that Mr. Sanders was telling you  
19 about the incident concerning his mother?

20 A That's possible, yes.

21 Q But you don't know if it was the same  
22 conversation or not?

23 A I cannot recall.

24 Q Now, do you remember this list of --  
25 or these teachers here on this document, being

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1 at the disciplinary meeting you attended?

2 A I remember three of them. A couple of  
3 them, I do not know. I also remember Mr. Murray  
4 being there.

5 Q Okay. Now, the ones that you do not  
6 remember being there, do you know for a fact  
7 that they were not there, or do you just not  
8 remember --

9 A I don't know them personally. Or I  
10 don't recognize, you know, their names. If I  
11 see them, I might know them, but not know their  
12 names. You understand what I'm saying?

13 Q So, you're not claiming that any of  
14 the people that signed this were not at the  
15 meeting?

16 A No. There were also more people at  
17 the meeting than what's on this list.

18 Q Okay. Thank you. Do you know any  
19 other names, or do you know the names of any  
20 other people that attended that meeting, that  
21 didn't sign that?

22 A Josh Cox, Coach Whitten. There was a  
23 few others. I can't remember their names. If I  
24 saw them, I could -- I could pick them out of  
25 probably a book or whatever.

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1 Q Okay.

2 A But I don't know why they're not on  
3 the list, either.

4 Q Okay. I want to talk a little bit  
5 about Josh's athletics and his relationships  
6 with the coaches and everything. Josh was a  
7 pretty competent athlete, wasn't he?

8 A He was all right.

9 Q And did he play sports other than just  
10 football?

11 A Yes. Basketball.

12 Q Who were his basketball coaches?

13 A Coach Scott Whittaker.

14 Q Now, was Coach Whittaker a coach that  
15 was at the disciplinary meeting?

16 A No.

17 Q Could you please remind me -- I  
18 thought there was a name that sounded familiar.  
19 Was there a Whitten?

20 A Whitting. Coach Whitting.

21 Q So, Coach Whitting was on the  
22 disciplinary committee, but Coach Whittaker was  
23 not?

24 A Correct. Not the one that -- he  
25 didn't sign the committee thing, but he was

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1 there.

2 Q Did Josh -- or was Josh being  
3 recruited or followed by any colleges, for any  
4 possible athletics?

5 A There was talk, but no letters, that  
6 were, you know, coming.

7 Q To your knowledge, there was never any  
8 scouts coming to watch him, or anything of that  
9 nature?

10 A The coaches had mentioned something to  
11 him, but, as far as me actually meeting anyone,  
12 none that I know of.

13 Q Okay. Did Josh have any kind of ill  
14 feelings towards any of his football coaches,  
15 during this season? Or the 2005 season?

16 A We had a complaint brought to Mr.  
17 Murray's attention, against Coach Charles  
18 Winchester.

19 Josh had knee surgery the year before, that  
20 Winchester wasn't there.

21 A couple of the players come up to Josh,  
22 after a practice and said, "Coach Winchester  
23 told us how to block you, as to take your knee  
24 out."

25 Josh was concerned. Called me. I told him

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1 to he needed to go to Murray. And, supposedly,  
2 they set up a meeting.

3 This was a week before this incident  
4 happened.

5 Q Okay. Let's go back over that. Josh  
6 had surgery on his knee when?

7 A It would have been a year before this  
8 incident.

9 Q Okay. So, 2004?

10 A Yeah. Somewhere in there, yes.

11 Q And was Coach Winchester not the  
12 football coach at Wicksburg during the 2004  
13 season?

14 A That's correct.

15 Q So, the 2005 season was his first --

16 A That is correct.

17 Q -- there? Were there any other  
18 grievances between Josh and any of the other  
19 coaches, before this football game?

20 A Not to my knowledge.

21 Q Did you ever know Josh to use any kind  
22 of supplements for weight lifting or anything  
23 like that?

24 Not anything illegal. But I know GNC and  
25 different companies make weight-gainers and bulk

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1 -- supplements that bulk people up.

2 A One summer, they tried it. One of the  
3 coaches wanted to do it. He didn't even finish  
4 what he gave him. I mean, he just didn't do it.  
5 We didn't do anything like that.

6 Q Do you recall what that was that he  
7 tried?

8 A It was supposed to be like a  
9 milkshake, some kind of protein shake, you're  
10 supposed to take after lifting. It wasn't --  
11 one of the coaches gave it to him. He had  
12 bought a case of it or something. I believe  
13 that was Coach Mitchell, the year before.

14 Q Did you remember the brand or --

15 A I really don't, no.

16 Q Okay. And did Josh ever use steroids,  
17 to your knowledge?

18 A No, sir.

19 Q And do you have any reason to believe  
20 that Josh was using any type of supplements or  
21 steroids, on the night of the incident?

22 A No.

23 Q Now, Mr. Davis, did you ever have any  
24 grievances with any of Josh's coaches at  
25 Wicksburg High School?

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1 A I was upset about the incident with  
2 Winchester, so, we did research on Charles  
3 Winchester.

4 He was fired from the school he had last  
5 attended, for starting a riot at a football  
6 game.

7 Q And do you know what previous school  
8 that --

9 A Wewahitchka High School.

10 Q Can you spell for me?

11 A I surely cannot.

12 Q Was that in Alabama?

13 A That is in Florida. He was fired for  
14 that incident, from coaching.

15 Q Did you have any grievances with any  
16 of the coaches involved in the incident, on the  
17 night of the football game?

18 A No, sir.

19 Q Had you ever been banned from Houston  
20 County Board of Education athletic events?

21 A I was banned from the school of  
22 Houston County, due to an incident with a band  
23 director, which, if we go back to the April --  
24 the last month of 2007, resigned, due to sexual  
25 allegations that I brought up against him two



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1 years ago, to the board of education and to Mr.  
 2 Tim Pitchford.  
 3 Q Now, let's just focus on the athletic  
 4 department, for what we're here today. Had you  
 5 been banned, or asked not to attend any sporting  
 6 event?  
 7 A I was banned from the school, due to  
 8 the alt -- not altercation, but the complication  
 9 with that teacher. I was banned from any school  
 10 grounds. Could not see my kids play Little  
 11 League baseball or anything, due to a  
 12 confrontation with that teacher.  
 13 I was going to ask him about sexual  
 14 improprieties.  
 15 Q And you mentioned earlier that you  
 16 used to announce football games at Wicksburg?  
 17 A I did. The speakers on the field are  
 18 still mine. They haven't gave them back, yet.  
 19 Q Were you told not to continue  
 20 announcing the games?  
 21 A That is correct.  
 22 Q And that was a result of the incident  
 23 with the band director you were talking about?  
 24 A That is correct.  
 25 Q Had you previously gotten into any

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1 heated arguments with any of Josh's or any of  
 2 your other children's athletic coaches?  
 3 A No, sir.  
 4 MR. MOODY: Give me just a second to  
 5 look back over everything, Mr.  
 6 Davis.  
 7 Q Mr. Davis, let's go back to this  
 8 confrontation that led to your being banned from  
 9 some Houston County schools and no long being  
 10 allowed to announce.  
 11 Was this a physical altercation between you  
 12 and the band director?  
 13 A We got into a verbal altercation. He  
 14 stepped up on a curb, and we bumped noses, and I  
 15 was accused of -- I wouldn't say physical.  
 16 There was no law called or anything.  
 17 It was -- and then, we had a meeting with  
 18 the -- and I will say this: I requested a  
 19 meeting with him, the principal and Tim  
 20 Pitchford, at the school.  
 21 The result of that was that I had brought  
 22 up my concerns for the band department being  
 23 away from the school, that there were no films  
 24 -- no cameras in the school, and that this man  
 25 was allowed to be there alone.

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1 Of course, I was accused -- accusing  
 2 someone of something, and I did not -- at that  
 3 time, I said that it was a rumor that he had  
 4 little girlfriend things going on.  
 5 And I asked, why can't we put cameras or  
 6 something up there, for the security of these  
 7 children. That was my main focus that day. And  
 8 that things would be treated fairly on how they  
 9 picked and do stuff.  
 10 Q Okay. Now, back to this altercation.  
 11 Where did it occur?  
 12 A It happened in front of the band room,  
 13 the night of -- I can't remember the night,  
 14 exactly. But it was during a week night. No  
 15 one around, except me and him. And his wife was  
 16 there, but, I mean --  
 17 Q So, this altercation with the band  
 18 director, it occurred at Wicksburg High School?  
 19 A That's correct.  
 20 Q And it occurred in front of the band  
 21 room?  
 22 A That is correct.  
 23 Q And was it -- you said it was at  
 24 night?  
 25 A Yes. In the evening, yes.

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1 Q Were there students present?  
 2 A No, sir.  
 3 Q Were there any other parents present?  
 4 A No, sir. His wife was there.  
 5 Briefly. She didn't stay the whole --  
 6 Q Okay. So, it was you, the band  
 7 director and the band director's wife?  
 8 A That is correct.  
 9 Q And do you recall his name, sir?  
 10 A Jason Cheshire.  
 11 Q And do you recall his wife's name?  
 12 A I do not.  
 13 Q And that was the -- first of all,  
 14 there was no police report filed about this  
 15 incident?  
 16 A No, sir.  
 17 Q No arrests made?  
 18 A No, sir.  
 19 Q And then, you met with Mr. Pitchford  
 20 and the principal at Wicksburg?  
 21 A Right. And then, whenever I made the  
 22 -- you now, laid out everything I wanted to say.  
 23 And then, Jason had told them, "What are  
 24 y'all going to do about him bumping me?"  
 25 And then, the next thing I know, I get a

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1 letter from the board, saying I'm banned from  
2 the school, without a hearing or anything.

3 Then, I was allowed to -- I requested a  
4 hearing and got to go, but they didn't reverse  
5 the decision.

6 A month later, I asked for a request to go  
7 back and speak to them. I spoke to the board.  
8 They allowed me to go only to sporting events,  
9 then. I could only go to the games, to pick up  
10 -- I couldn't go on the campus, to pick up my  
11 kids or drop my kids off. Then, they allowed me  
12 to go to the campus.

13 So, whenever this incident happened, and  
14 they asked me to go to the school that Tuesday,  
15 I actually had to call Tim Pitchford and ask him  
16 was I allowed go on the school grounds.

17 Q Now, roughly when did this incident  
18 between you and the band director occur?

19 A It was the -- before -- the year  
20 before -- it was the end of the year before the  
21 football season started, back before the next  
22 school year started.

23 Q So --

24 A So, like -- it was during baseball  
25 season, so, it would be now -- right around now.

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1 I'm just guessing. You know, I can't tell you  
2 specifics.

3 Q Spring of 2005 --

4 A Yes.

5 Q -- we're talking about?

6 A Yes.

7 Q Okay. So, you had this altercation  
8 with the band director in the spring of 2005?

9 A Verbal.

10 Q Verbal altercation with the band  
11 director, in the spring of 2005? Then, there  
12 was a summer break, and then, the football  
13 season, and school would have started back up  
14 for the fall of 2005?

15 A Correct.

16 Q Okay. And you were allowed -- or were  
17 you allowed to attend Josh's football games?

18 A I was not, sir. I went and asked for  
19 permission to go.

20 Q Okay. And did you ask permission to  
21 go to the games before the beginning of football  
22 season?

23 A That is correct.

24 Q Mr. Davis, how did it come to pass  
25 that just you and the band director and his wife

Page 75

1 were at Wicksburg High School?

2 A Wicksburg is just a school. There was  
3 ball going on -- baseball, down below, and I  
4 happened to be there.

5 I was very active in the ball stuff. I did  
6 whatever I could to help the kids with their  
7 ball. I umpired a lot for them and stuff, up  
8 there. Stuff like that, for free.

9 Q So, you --

10 A I was at -- I'm near the school. I  
11 was there all the time.

12 Q Did you have a meeting set up with --

13 A No, I did not.

14 Q -- the band director? So, you were  
15 just up at the school and happened to see the  
16 band director?

17 A That is correct.

18 Q And there was nobody else around?

19 A That is correct.

20 Q Okay. Can you remember what you were  
21 doing at the school?

22 A Baseball field, yeah. I was down with  
23 the -- I'd come by, to see if they needed an  
24 umpire, or doing something at the concession  
25 stand or something. I was always there. So --

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1 Q Now, if you came by to see if you  
2 could do something, that makes me think there  
3 was somebody there that you were going to check  
4 and see if you could help them out or something?

5 Was that --

6 A Yeah. They were down at the baseball  
7 field, yes. And I saw Cheshire up at the top,  
8 and we had a conversation.

9 Q So, you're saying there were other  
10 people on the school grounds, there was just no  
11 one around the band area?

12 A The band area sits away from the  
13 school.

14 Q Okay.

15 A Quite a ways away from the school.  
16 And then, you've got -- I can't describe it with  
17 him, I guess. You've got it up on a hill, and  
18 then, and you've got -- the baseball field is  
19 down in a hole, and then, you've got the school  
20 over to the side.

21 There was a few people down at the field.  
22 But we were up at the top, and there wasn't  
23 nobody up there but me and him.

24 Q So, no one was in a position to see --

25 A Or hear or anything, that's correct.

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1 Q -- see or hear the events with you and  
2 the band director, except you, the band director  
3 and his wife?

4 A Correct.

5 Q Okay. Could you describe for me the  
6 confrontation you had with the band director?  
7 Just please start from the first words you said  
8 to him, to how it ended? Just walk me through  
9 it.

10 A He had asked my daughter to try out  
11 for majorette. And I was apprehensive about it,  
12 and didn't want her to do it, but she did it  
13 anyway.

14 We had talked a couple of times before  
15 that. She was doing great, da, da, da, da. You  
16 know, "Oh, I'm looking forward to this year, da,  
17 da, da, da."

18 And then, I don't find out about the other  
19 until after, that he brings her into his office.

20 "I'm going to take care of you this year,  
21 Gabby, da, da, da, da."

22 And then, Gabby kind of was like, you know,  
23 "I'm not feeling comfortable here, da, da, da,  
24 da."

25 So, the next thing I know, she's not making

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1 make majorette. She's the worst one out there.  
2 That's what he's telling me.

3 When me and him had this talk, "She's  
4 pitiful. She's awkward. She can't do  
5 anything."

6 And that's when we got into our little  
7 conversation.

8 Q Okay.

9 A And I did not find out about her going  
10 into his office until afterwards. And that's  
11 when I requested the meeting with Pitchford,  
12 Murray and the others.

13 Q Now, tell me about the confrontation  
14 itself?

15 A The confrontation was, I had told him  
16 that I had been suspicious of what he had been  
17 doing --

18 Q Let me interrupt you there. Were you  
19 driving by and saw him, or were you walking by  
20 and saw him?

21 A I reiterate that, I'm down at the  
22 field. You park at the top, up there, or you  
23 can park at the other. The band room is way  
24 away from everything. It's up there, and  
25 there's parking up there and everything. It's

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1 not a typical school. It's, like, away.

2 Q How did --

3 A I saw him pull up, basically.

4 Q Okay. You saw the band director pull  
5 up?

6 A Correct.

7 Q And did you walk to the band  
8 director's car, or did you drive --

9 A I drove my vehicle up there.

10 Q Okay. So, you drove from the baseball  
11 field --

12 A I was on the -- I think I was at the  
13 basketball -- I can't remember exactly where I  
14 was parked. Somewhere down there. And then, I  
15 drove back up there.

16 Q So, you got into your car, or your  
17 vehicle, and drove to where the band director  
18 was?

19 A Correct.

20 Q And the band director -- had they  
21 exited their car, when you approached them?

22 A Correct. He was on the sidewalk.

23 Q Okay. Had he been inside the  
24 building, when you approached him?

25 A His wife had been. I don't think he

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1 -- I'm not sure. I can't say he had or hadn't.

2 Q And you exited your vehicle, to talk  
3 to him?

4 A That's correct.

5 Q Okay. And just starting from when you  
6 got out your vehicle, please walk me through  
7 what you said and what he said and what  
8 happened? I know, earlier, you had mentioned a  
9 bump, and let's just --

10 A I asked him what was going on, and why  
11 this happened with Gabby, and da, da, da, da.  
12 Why, all of a sudden, she became the worst one,  
13 when, a week later -- a week before, she wasn't.

14 And he started saying that, you know, she's  
15 the worst one, da, da, da, da.

16 And then, of course, you know, I'm a proud  
17 parent, and it gets me in a heated conversation.

18 And I said, "Well, I don't understand  
19 this." That, "She did everything she was  
20 supposed to do."

21 And then, there was some words exchanged  
22 between me and him.

23 And I did cuss him a couple of times. And  
24 I told the board I did. I didn't lie to  
25 Pitchford or any of them. I told them what I

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1 did, because I was mad.  
 2 I walked away. He said something, and I  
 3 walked back to him. And I was standing up on  
 4 the thing, and he stood up, and, when he stood  
 5 up, we bumped noses. And then, it just got  
 6 heated.  
 7 And my last comment, and I'll tell you  
 8 exactly what I told them, was that I said,  
 9 "Jason, I've had enough of this" -- "you've got  
 10 this little girlfriend things going on around  
 11 here at school, and I'm going to put a stop to  
 12 it."  
 13 And that was my last comment to him.  
 14 Q All right. Now, you say -- when you  
 15 mentioned that he was standing up on the thing,  
 16 was he standing --  
 17 A I was standing on the, like, sidewalk,  
 18 and there's a curb here.  
 19 Q Okay.  
 20 A So, when he stood up, to, you know,  
 21 level up with me on the curb, we bumped. It was  
 22 like -- it was kind of like he leveled and we  
 23 bumped noses. Because we were in each other's  
 24 face. It wasn't just a one-way street. He was  
 25 in my face as much as I was in his.

Page 82

1 Q Okay. And so, you said that you did  
 2 curse at him some?  
 3 A I did.  
 4 Q And did he curse back at you?  
 5 A I don't believe he did.  
 6 Q Okay. And other than this bump, you  
 7 said it was -- was it heads bumping or --  
 8 A It was noses, yes, sir.  
 9 Q Okay. And, other than this bump, was  
 10 there any kind of physical contact between  
 11 either one of you?  
 12 A No, sir.  
 13 Q Okay. And how did this argument end?  
 14 A With me telling him what I just told  
 15 you. And exactly what I told the board, and  
 16 exactly what I told Pitchford and them.  
 17 Q Did you just walk away?  
 18 A Yeah. After that, I did.  
 19 Q Okay.  
 20 A And I gave him the finger, after that.  
 21 Q You said you did give him the finger,  
 22 after that?  
 23 A Yes, I did.  
 24 Q And after you walked away, you got in  
 25 your vehicle and left? Is that correct?

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1 A That's correct. I went home.  
 2 Q Okay. And there was no police report  
 3 filed or no arrests, about this incident?  
 4 A No, sir. It wasn't even brought up at  
 5 school, when I saw Murray the next day. I'm the  
 6 one that requested that we have a meeting.  
 7 MR. MOODY: Okay. I think that's all  
 8 I have for you, Mr. Davis.  
 9  
 10 EXAMINATION  
 11  
 12 BY MR. NEWMAN:  
 13 Q Mr. Davis, you were asked, earlier,  
 14 about the basis for your lawsuit, and you  
 15 mentioned, I think, two things. One, the  
 16 escalation of events. What did you mean by  
 17 that?  
 18 A Josh wasn't given the right to finish  
 19 a public education, for one. He didn't -- and  
 20 he didn't have a -- I couldn't put him anywhere  
 21 in public school, so, he was denied his right  
 22 for that.  
 23 And then, the other things that happened --  
 24 and I've never done one of these, so, I'm going  
 25 to go ahead and tell you guys, I'm kind of

Page 84

1 scared when I bring up, you know, this, medical  
 2 that, or what. I'm not sure what kind of angle  
 3 everybody's got on this. So --  
 4 Q Well, let me stop you and see if I can  
 5 redirect you back to what I'm talking about.  
 6 A Oh, okay. Because I don't --  
 7 Q You mentioned, earlier, an escalation  
 8 of events. And I don't want to put words in  
 9 your mouth, but, what do you mean by that,  
 10 "escalation of events"? That evening or what?  
 11 A I think it all started with this  
 12 incident he brought up here at the end, with  
 13 Cheshire. I believe that -- and the end of the  
 14 thing was that Josh gets caught in the middle of  
 15 -- somehow, I get -- I'm ostracized from the  
 16 beginning here, with this, until this thing  
 17 happened with Josh. It just doesn't make any  
 18 sense to me.  
 19 Q Okay.  
 20 A That's what I'm saying. I mean --  
 21 Q Now, the second thing you mentioned  
 22 was, a rush to expulsion, as a basis for your  
 23 lawsuit?  
 24 A Correct.  
 25 Q Would you explain that a little bit



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1 better for me?

2 A Yes, sir. They didn't take the time  
3 to research or do anything -- like I said  
4 earlier, about the film. They never looked at  
5 -- as far as I know, the board of education  
6 never looked at a film. We asked for film. We  
7 asked for everything we could.

8 Our medical evidence wasn't even -- they  
9 passed the paper around. They didn't even wait  
10 to call a doctor or anything. They just -- they  
11 just, "This is what we're going to do," and did  
12 it.

13 So, I just didn't think he was thoroughly  
14 given a shake at -- giving us a chance to do  
15 what we needed to do.

16 Q Now, you were asked about your son's  
17 psychological and emotional status. And I got  
18 the impression you thought you were being asked  
19 a medical diagnosis?

20 A Yes.

21 Q Well, I don't think that's what he was  
22 intending to ask you. So, I'm just going to  
23 say, I'm not asking you a medical opinion. But,  
24 in the sense that you've been around your son  
25 since this incident happened, have you noticed

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1 any change in his behavior?

2 A Shortly after, I did. Josh and I -- I  
3 have five children, but Josh is my closest one.  
4 We're almost like brothers, instead of like  
5 father and son, because he was my first child  
6 and he was -- you know, we did everything  
7 together.

8 The hardest part for me and him both was,  
9 when this happened, we didn't get to spend the  
10 time together, that we normally did.

11 Q You're saying, because he had to go --

12 A Yes. Because he had to go away.  
13 That's the hardest thing I've ever had to do in  
14 my life.

15 Q Well, let me ask you, from where you  
16 were able to interact with him, did you notice  
17 anything different about him, from personality  
18 or how he conducted himself?

19 A He was a little bit more distant. He  
20 didn't confide in me as much as he had before.  
21 He -- at first off, he was confused, and didn't  
22 understand why all this was happening to him.  
23 And he just didn't understand it.

24 Q Were there ever any times when you had  
25 any conversation with him, when he expressed

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1 that he felt like he been humiliated?

2 A Yes. He -- like I said, he didn't  
3 understand why this had to happen to him. I  
4 mean, he had always been a kid that always tried  
5 to do the best he could. He had never been in  
6 trouble. If he got in trouble, he was  
7 embarrassed about being in trouble. And then,  
8 didn't like that -- he didn't want to come home  
9 and say, "Dad, I did this." Something to get  
10 him in trouble.

11 And his school record will show that, you  
12 know, he had never been in trouble. He had  
13 never --

14 Q Had he always attended this school?

15 A That's correct.

16 Q And your testimony is that Wicksburg  
17 goes from kindergarten up through twelve?

18 A Yes, sir.

19 Q And did he go to kindergarten there?

20 A Yes, sir.

21 Q Only school he's ever been to?

22 A Yes, sir.

23 Q And, obviously, he had his friends at  
24 this school?

25 A That is correct.

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1 Q Do you know if there was any change in  
2 the way he and his friend interacted, after this  
3 incident happened?

4 A Yeah. He wasn't around to do the  
5 things with his friends that he -- the little  
6 parties that they have, or, you know, the  
7 get-togethers and stuff. That wasn't -- you  
8 know, he wasn't a part of any of that any more.

9 He had a girlfriend at the time this  
10 happened. That didn't last too much longer  
11 after that.

12 Q When he would come home on the  
13 weekends, after he was expelled, he didn't --  
14 did he socialize with those same friends any  
15 more?

16 A No, sir.

17 Q Do you know why he didn't?

18 A He didn't feel like he was in  
19 connection with them, and a lot of them would  
20 bring up the stuff that happened at school. And  
21 there was always talk at the school, about what  
22 was going on with him.

23 Q Talk about him and what had happened?

24 A That is correct.

25 MR. NEWMAN: Okay.

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## EXAMINATION

RESUMED BY MR. MOODY:

Q Mr. Davis, did anyone ever -- well, let me be more specific. Did any of Josh's football coaches ever bring up this previous incident with the band director, in their conversations with you?

A I never talked to the coaches after that. It was a new staff. I wasn't allowed to get near them.

Q So, no one -- or no coach ever told you that they were punishing Josh because of an incident you had with the band director?

A I never talked to any of the coaches.

Q So, if you didn't talk to them, nobody told you that? Correct?

A Correct.

Q Okay. Was this incident brought up, the incident with the band director, was it brought up at all during the disciplinary meetings? Either the one at the school or at the board?

A No, it was not.

Q And you did attend at least two

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disciplinary hearings, concerning Josh?

Correct?

A The one at school and the one at the board, correct.

Q Okay. And you were allowed to present evidence on Josh's behalf at these meetings? Correct?

A Correct.

Q And no one stopped you from doing that?

A Correct.

Q Okay. And even at one of those meetings, you had Mr. Freet and your attorney representing you and Josh, as well? Correct?

A Correct. Also, though, we asked for films before we ever went to the meetings, and we were never provided. I don't understand why -- we were provided afterwards, but not -- they had them. So, what? Did they pop up months later?

Q Well, at that hearing, you were allowed to present all the evidence that you had on behalf of Josh? Correct?

A Correct.

Q And did the school board present

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evidence, showing their side of the event?

A All they showed was the coaches involved.

Q Okay. But did the coaches involved actually show up, physically show up and speak at the hearing?

A They did.

Q Okay. And did the school board use any type of videotape evidence at the hearings?

A They did not.

Q Okay.

A Supposedly, there wasn't any.

Q But no one used any video at all, at the hearings? Correct?

A We couldn't, if we couldn't get none.

Q Did anyone use any video at the hearing?

A No.

Q "Yes" or "no"?

A No.

MR. MOODY: Okay. I think that's all I have.

MR. NEWMAN: All right.

END OF DEPOSITION

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## DEFENDANT'S EXHIBIT NO. 1



**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE MIDDLE DISTRICT OF ALABAMA**  
**SOUTHERN DIVISION**

GREG DAVIS, AS NEXT  
FRIEND AND NATURAL  
GUARDIAN OF JOSHUA DAVIS

PLAINTIFF

VS.

HOUSTON COUNTY, ALABAMA  
BOARD OF EDUCATION

DEFENDANT

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

\* CIVIL ACTION No.: 1:06-cv-953

**PLAINTIFF'S ANSWERS FIRST INTERROGATORIES**

Comes now Plaintiff, Greg Davis, and answers the Defendant's Interrogatories as follows:

(1) Gregory Tillman Davis – Greg Davis  
615 Sherwood Trail, Newton, Alabama 36352;

(2) Terrace at Grove Park  
101 Tulip Lane, Dothan, Alabama  
334-792-7349  
Supervisor – Penny Jones  
Years – October 2005 to present;

Wiregrass Habitat for Humanity  
Reeves Street  
792-8453  
Supervisor – Tamra;

Eaglewood Inc.  
Denver, North Carolina  
Supervisor – Rick Eagle;

(3) 615 Sherwood Trail, Newton, Alabama 36352;

- (4) a) Denise Thomley  
Hill Top Road  
Newton, Alabama 36352  
334-692-3917;
- b) Brad Woodham  
42 Carpenter Road  
Newton, Alabama 36352;
- c) John Ellise  
163 Vining Drive  
Dothan, Alabama 36303  
334-693-3451;
- d) Ben Booth  
100 Cumbie Road  
Newton, Alabama 36352  
334-692-3709;
- e) Nancy Booth  
100 Cumbie Road  
Newton, Alabama 36352  
334-692-3709;
- f) Roger Dale Sanders  
822 Windmill Road  
Newton, Alabama 36352  
334-692-5497;
- g) Mike Love  
Taylor, Alabama  
334-793-5693  
334-790-7532;
- h) Betty Peters  
334-794-8024;
- i) Starla Brannon;
- j) Chelsie Welden;

- k) Marcie Delittle;
- l) Tammy Peters;
- (5) a) She was an eye witness the night of the September 16, 2005 football game;
- b) Eye witness at game;
- c) Eye witness at game;
- d) Eye witness at game;
- e) She was at the disciplinary meeting concerning Josh;
- f) He was involved at the disciplinary meeting;
- g) He filmed the game for Wicksburg on September 16, 2005;
- h) She was that the board meeting hearing and was an eye witness to the behavior of the coaches/principal;
- i) She was involved at the disciplinary meeting;
- j) Eye witness at game;
- k) Eye witness at game;
- l) Eye witness at game;
- (6) these are attached to my Answers to the Request for Production and speak for themselves;
- (7) Graduated from Ariton High;  
Attended ESCC;  
Attended Wallace Community College;
- (8) None;

(9) Judy Joiner was wrongly touched by Cody Long. Cody Long got one wee alternative school in 2005 or 2006. ;  
Mrs. Sanders who was kicked in the buttocks by a high school student named Lance. Mrs. Sanders told the Vice Principal, Mrs. Smith. Mrs. Smith told Lance to just stay away from Mrs. Sanders which is employed at Wicksburg High School.;

10) N/A;

11) Dixie Academy, Louisville, Alabama  
\$400.00 monthly room and board for 8 months;  
\$200.00 monthly gas for 8 months;  
\$160.00 monthly lunch and break food for 8 months;  
\$2,000.00 tuition;  
\$500.00 books;  
\$1,200.00 going to Joshes away ball games; gas, entry, food ;  
for four months ;  
\$500.00 graduation expense;  
TOTAL = \$10,280.00;

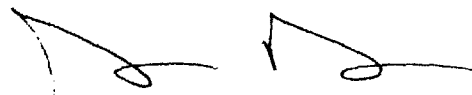
12) Attorney will handle that; I don't know;

13) Josh walked off the field and brushed Coach Smith. Coach Smith grabbed with anger at Josh, they were separated by several other coached. Josh was standing there and Coach Carter grabbed Josh and pushed him back on a bench. then Josh stands up and bumps Coach Carter with his shoulder pad in his face while Josh was trying to take off his jersey. Coach Winchester screams to get Josh off the field. And then we were asked to leave by the police and an officer escorted us out of the gates.;

14) Pilgrim Home Baptist Church; 5 years;

15) No;

16 Yes.

  
\_\_\_\_\_  
Greg Davis

Malcolm R. Newman, Attorney, PC

/s/ Malcolm R. Newman  
Malcolm R. Newman (NEW017)  
P.O. Box 6137  
Dothan, Alabama 36302  
(334)792-2132  
ASB-2826-M39M

CERTIFICATE OF SERVICE

I hereby certify that on March, 15 2007, I have served a copy of the foregoing document with the following via U.S. Parcel Service:

Jere C. Segrest  
P.O. Box 1469  
Dothan, Alabama 36302

Kevin Walding  
P.O. Box 1469  
Dothan, Alabama 36302

Patrick B. Moody  
P.O. Box 1469  
Dothan, Alabama 36302

/s/ Malcolm R. Newman  
Malcolm R. Newman

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION

GREG DAVIS, AS NEXT FRIEND \*  
AND NATURAL GUARDIAN OF \*  
JOSHUA DAVIS \*

PLAINTIFF, \*

vs. \*

HOUSTON COUNTY, ALABAMA \*  
BOARD OF EDUCATION \*

DEFENDANT. \*

CASE NO.1:06-CV-953-MEF

DEFENDANT'S FIRST INTERROGATORIES  
TO PLAINTIFF

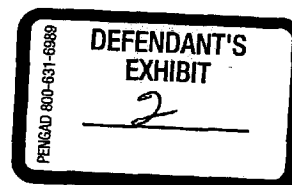
THE DEFENDANT, the Houston County Board of Education,  
by and through counsel, and pursuant to Rule 33, Fed. R.  
Civ. P., propounds the following written questions to be  
answered under oath by the Plaintiff, Greg Davis.

1. State your full name (including any other names,  
such as nicknames or names that have been legally changed by  
which you have been known), and your present address.

RESPONSE:

2. Describe your employment history, giving the dates  
employed, the location of employment, the name, address, and  
telephone number of any supervisors and/or employers.

RESPONSE:





3. State each and every place you have lived for the past 10 years.

RESPONSE:

4. Please state the names, addresses, and telephone numbers of every person whom you believe or know possesses information about or concerning the events made the basis of this case and/or whom you believe or know possesses information that supports or tends to support any one or more of your contentions, allegations, or positions in this matter.

RESPONSE:

5. For each person listed in your answer to Interrogatory 4, please state what information you believe that person knows or possesses.

RESPONSE:

6. Please name and describe fully and in detail all the documents or tangible items that you have that concern, relate to, or are associated with the events made the basis of this lawsuit, or that support or tend to support any one or more of your allegations, contentions or positions in this dispute.

RESPONSE:

7. Please state your educational background; please include a statement of any and all schooling, training, seminars or degree programs that you have attended, attempted, or completed.

RESPONSE:

8. Please state the style of the case, the Court, names of the parties involved, and the disposition of any lawsuits in which you have ever been involved.

RESPONSE:

9. Please describe in detail every instance of an educator at Wicksburg High School being targeted for intentional attacks by a student, but that student receiving less punishment than Joshua Davis as you claim in Paragraph 13 of your Complaint. Please include the name of the student, the name of the teacher, the location and approximate date of the attack, and the punishment the student received.

RESPONSE:

10. Please list any medical professional that examined Joshua Davis when he was seeking treatment for the alleged head injury he received during the football game at the center of this case. Please include the doctor's name,

address, diagnosis, treatment plan, and date of the visit.

RESPONSE:

11. List all information concerning your claim in Paragraph 12 of your Complaint concerning Joshua's attendance at a private school. Please include the name and address of the school, the amount and type of expenses incurred, and information concerning Joshua's post secondary education.

RESPONSE:

12. Please state the name, address, and qualifications of every person or expert witness that you expect to call as a witness at trial, and provide all Rule 26 information on the witness, including the subject matter on which the expert is expected to testify, the substance of the facts and opinions on which the expert is expected to testify, and a summary of the grounds of each and every opinion held by each and every expert, and the conclusions or opinions of each and every expert.

RESPONSE:

13. Relate in your own words the physical altercation between Joshua Davis and each football coach on the

sidelines at the game on September 16, 2005 with Houston County High School resulting in Joshua being escorted from the field by a Houston County Deputy Sheriff and his expulsion from Wicksburg High School.

RESPONSE:

14. Are you a member of any churches or civic organizations? If so, please list each church and/or civic organization and the length of time you were involved with each church or civic organization.

RESPONSE:

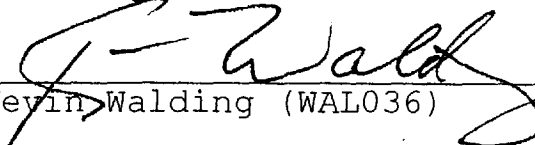
15. Have you ever been arrested for any crime, felony or misdemeanor? If so, please provide the date and place of arrest, the charges, and the current disposition of each case.

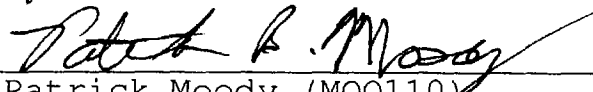
16. Are you aware that your answers to these interrogatories are made under oath, that is, that you swear or affirm that your answers are truthful and you may be subject to sanctions for failing to tell the truth while you are under oath?

RESPONSE:

HARDWICK, HAUSE, SEGREST & WALDING

BY:   
Jere C. Segrest (SEG005)

BY:   
Kevin Walding (WAL036)

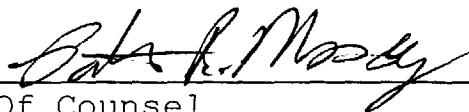
By:   
Patrick Moody (MOO110)  
Attorneys for Defendant  
Post Office Box 1469  
Dothan, Alabama 36302  
Phone: (334) 794-4144  
Fax: (334) 671-9330

**CERTIFICATE OF SERVICE**

I hereby certify that, this date, I have served a copy of this document on the following individual(s) or attorney(s) of record by placing same in the United States Mail in a properly addressed envelope with adequate postage.

Mr. Malcolm R. Newman  
P. O. Box 6137  
Dothan, Alabama 36302

This the 21<sup>st</sup> day of February, 2007.

  
Of Counsel



Page 1

Page 3

1 IN THE DISTRICT COURT OF THE UNITED STATES  
2 FOR THE MIDDLE DISTRICT OF ALABAMA  
3 SOUTHERN DIVISION  
4 GREG DAVIS, AS NEXT )  
5 FRIEND AND NATURAL )  
6 GUARDIAN OF JOSHUA )  
7 DAVIS, )  
8 PLAINTIFF, )  
9 VS. ) CASE NO.1:06-CV-953-MEF  
10 HOUSTON COUNTY, ALABAMA )  
11 BOARD OF EDUCATION, )  
12 DEFENDANT. )  
13 The deposition of JOSHUA DAVIS, taken by  
14 the Defendant, pursuant to the Federal Rules of  
15 Civil Procedure, before John G. Whitfield, Court  
16 Reporter and Notary Public, State at Large, at  
17 the law offices of Hardwick, Hause, Segrest &  
18 Walding, Dothan, Alabama, on the 14th day of  
19 June, 2007, at 1:35 P.M., CST, pursuant to  
20 notice.  
21 APPEARANCES:  
22 FOR THE PLAINTIFF: MR. MALCOLM R. NEWMAN  
23 Attorney at Law  
24 Dothan, Alabama  
25 ALSO PRESENT:  
26 GREG DAVIS

1 JOSHUA DAVIS  
2 having been first duly sworn, testified as  
3 follows, to-wit:  
4  
5 EXAMINATION  
6  
7 BY MR. MOODY:  
8 Q All right, Josh. My name is Patrick  
9 Moody and this is Kevin Walding. We represent  
10 the Houston County Board of Education. And  
11 we're going to talk to you today about this  
12 football game of September 16th, 2005, and the  
13 events after that.  
14 Have you ever given a deposition before?  
15 A No, sir.  
16 Q Okay. Pretty simply stated, the  
17 process is, I'm going to ask you questions, and  
18 when I complete my question, if you could please  
19 answer it truthfully and out loud. Try not to  
20 nod your head or say "uh-huh" or anything like  
21 that. And, if you don't understand what I've  
22 asked, please just tell me, and I'll try to  
23 reword the question or repeat it, so that we can  
24 communicate with each other.  
25 Josh, are you taking any kind of

Page 2

Page 4

1 STIPULATION  
2  
3 It is stipulated by and between counsel for  
4 the parties that this deposition be taken at  
5 this time by John G. Whitfield, Court Reporter  
6 and Notary Public, State at Large, who is to act  
7 as commissioner without formal issuance of  
8 commission to him; that said deposition shall be  
9 taken down stenographically, transcribed, and  
10 certified by the commissioner. The signature of  
11 the witness is waived.  
12 Except for objections as to the form of  
13 questions, no objections need be made at the  
14 time of the taking of the deposition by either  
15 party, but objections may be interposed by  
16 either party at the time the deposition is read  
17 into evidence, which shall be ruled upon by the  
18 Court on the trial of the cause upon the grounds  
19 of objection then and there assigned.  
20  
21  
22  
23  
24  
25

1 medications, drugs, or anything today, that will  
2 keep you from being able to communicate with me?  
3 A No, sir.  
4 Q Okay. And are you suffering from any  
5 kind of medical conditions today, that would  
6 keep you from being able to communicate and  
7 answer truthfully?  
8 A No, sir.  
9 Q All right. And, if you would, just  
10 please state your full name for the record?  
11 A Joshua Corey Davis.  
12 Q And, Josh, what was your age, at the  
13 time of this football game we're here about  
14 today?  
15 A Seventeen.  
16 Q All right. And then, how old are you,  
17 today?  
18 A Nineteen.  
19 Q Okay. And where are you currently  
20 living, Josh?  
21 A With my parents, in Wicksburg.  
22 Q Can you give us that address again?  
23 A 615 Sherwood Trail, Newton, Alabama,  
24 36352.  
25 Q And have you lived at that residence

Page 5

1 your whole life, Josh?  
 2 A No, sir. I've lived in Pinckard, and  
 3 then, we moved there, and then, after this  
 4 incident, we -- I had to stay in Louisville, to  
 5 go to school.  
 6 Q Right. I guess, how long has that  
 7 been your home, there in Wicksburg? Ten years  
 8 or so?  
 9 A Yeah.  
 10 Q And are you married, Josh?  
 11 A No, sir.  
 12 Q Did you have any children?  
 13 A No, sir.  
 14 Q Do you have any relatives, by blood or  
 15 marriage -- that doesn't apply to you -- but, do  
 16 you have any relatives who are over the age of  
 17 19 and live in Houston, Henry, Dale, Geneva or  
 18 Coffee Counties?  
 19 A Yes.  
 20 Q Would you name those for me, please?  
 21 A Robert Carnell and Barbara Carnell.  
 22 They live in Wicksburg, also.  
 23 Q Is there anybody else?  
 24 A Buddy Faircloth.  
 25 Q Anyone else? Or is that --

Page 6

1 A That's all I can think of.  
 2 Q -- all you can recall? Josh, do you  
 3 attend a church anywhere?  
 4 A Not regularly.  
 5 Q Were you attending a church, at the  
 6 time of --  
 7 A Pilgrim Home Baptist Church.  
 8 Q And are you a member of any social or  
 9 civic clubs or organizations?  
 10 A No, sir.  
 11 Q And, Josh, let's talk about your  
 12 educational history.  
 13 A Okay.  
 14 Q You attended school at Wicksburg?  
 15 Correct?  
 16 A Yes, sir.  
 17 Q And how long did you attend school at  
 18 Wicksburg?  
 19 A K through eleventh grade, and then, a  
 20 month and a half of my senior year.  
 21 Q And then, where did you go after  
 22 Wicksburg?  
 23 A To Dixie Academy.  
 24 Q And approximately when did you begin  
 25 attending Dixie Academy?

Page 7

1 A I think it was the second nine weeks,  
 2 so, that would be -- into October.  
 3 Q Of what year?  
 4 A 2005.  
 5 Q Okay. And did you complete school at  
 6 Dixie Academy?  
 7 A Yes, sir.  
 8 Q Okay. So, you graduated from Dixie  
 9 Academy? Is that correct?  
 10 A Yes, sir.  
 11 Q Okay. Have you attended any college,  
 12 junior college or trade schools, since then?  
 13 A Wallace Community College.  
 14 Q How long have you gone to Wallace?  
 15 A I went the whole summer course. And  
 16 then, I took a real estate course this past  
 17 January. I'm studying to take my real estate  
 18 test, now. And I went to auctioneer's school,  
 19 in March, and passed that.  
 20 Q Okay. So, did you receive any degree  
 21 from Wallace, or did you just take some classes?  
 22 A I just took some classes.  
 23 Q Okay. Josh, let's talk about your  
 24 employment history. Are you employed currently,  
 25 right now?

Page 8

1 A Yes, sir.  
 2 Q Where are you employed at?  
 3 A Actually, I have two jobs. I work at  
 4 Beef O'Brady's, in Enterprise.  
 5 Q All right.  
 6 A And then, I help my uncle, part time,  
 7 in Barbour County. He has a pest control  
 8 company. Circle B Pest Control.  
 9 Q What's that uncle's name?  
 10 A John Beatty.  
 11 Q Josh, this incident that occurred at  
 12 the ball game on September 16, 2005 -- is that  
 13 the correct date?  
 14 A Yes, sir.  
 15 Q Okay. And that was a Friday night  
 16 football game?  
 17 A Yes, sir.  
 18 Q And, as I recall, y'all were playing  
 19 Houston County? Correct?  
 20 A Yes, sir.  
 21 Q And that was in Columbia?  
 22 A Yes, sir.  
 23 Q All right. Now, y'all were basically  
 24 -- well, let me just start at the beginning of  
 25 the game. Is that a pretty rivalry game,

Page 9

1 between Wicksburg and Columbia, or --  
 2 A Not that I recall.  
 3 Q So, just like a normal --  
 4 A Regular.  
 5 Q -- regular game? Okay. And, as I  
 6 understand it, you were playing both sides of  
 7 the ball? Is that correct?  
 8 A Yes, sir.  
 9 Q Okay. What positions were you playing  
 10 that night?  
 11 A That night, I was playing quick  
 12 tackle, on offense, and defensive end on off --  
 13 I mean, defense.  
 14 Q Okay. And were you the long snapper,  
 15 too?  
 16 A Yes, sir.  
 17 Q Is that correct? And some time in the  
 18 second quarter of this game, you got hit pretty  
 19 good, or you hit somebody pretty good and --  
 20 A I mean, I can't recall. I mean, I had  
 21 a concussion, so, I can't recall that.  
 22 Q All right. But you didn't have a --  
 23 you didn't think you had a concussion when you  
 24 started playing? Correct?  
 25 A Correct.

Page 10

1 Q Okay. So, it was sometime during the  
 2 game, that you believe you got a concussion?  
 3 A Yes, sir.  
 4 Q Do you remember what time in the game  
 5 that at you started feeling like there was  
 6 something wrong with you?  
 7 A No.  
 8 Q Did you ever notify one of the coaches  
 9 that you were injured?  
 10 A I mean, I had a concussion. I can't  
 11 recall that fact.  
 12 Q So, you don't remember saying --  
 13 A No.  
 14 Q -- "Hey, Coach, take me out," or  
 15 anything like that?  
 16 A Huh-uh.  
 17 Q Okay.  
 18 MR. NEWMAN: Answer out loud.  
 19 Q Yes. Yes. If you could answer a  
 20 little louder, please.  
 21 MR. WALDING: With words, please.  
 22 Q At half time of the football game,  
 23 it's my understanding that you were vomiting and  
 24 acting pretty sick? Do you recall that?  
 25 A No, sir.

Page 11

1 Q Okay. Have you been told that you  
 2 were vomiting and you were acting sick?  
 3 A Yes, sir.  
 4 Q Who told you that, Josh?  
 5 A We were told that during the --  
 6 actually, the board meeting, the Houston County  
 7 Board meeting, at the expulsion.  
 8 Q Do you remember who, specifically, was  
 9 giving that testimony?  
 10 A All the coaches said that.  
 11 Q Okay. Did any of your teammates tell  
 12 you that you were throwing up or vomiting or  
 13 acting funny or anything like that?  
 14 A I mean, I never talked to them after  
 15 that, so, they --  
 16 Q You never talked to any of your  
 17 teammates after the game?  
 18 A I mean, I might have. I had a  
 19 concussion, so, I don't know what I said or what  
 20 I, you know, done.  
 21 I didn't see them after the game, anyway,  
 22 because I was escorted off the field.  
 23 Q Well, I mean, in the days following  
 24 this, none of your --  
 25 A I was never allowed to go back to

Page 12

1 class.  
 2 Q Okay. But you never talked to any of  
 3 your teammates or friends, outside of school?  
 4 A Well, they all sort of shunned me for  
 5 that --  
 6 Q Did any of them tell you why they were  
 7 not talking to you after that game?  
 8 A No, sir.  
 9 Q Did anyone tell you that you were hit  
 10 pretty good in the second quarter and that  
 11 that's where they think you got injured at?  
 12 A No, sir.  
 13 Q Okay. After half time, do you  
 14 remember starting the third quarter?  
 15 A No, sir.  
 16 Q Okay. So, you basically don't  
 17 remember anything after the game starting?  
 18 A No, sir. I just remember a little bit  
 19 at the beginning, and, after that, I don't -- I  
 20 don't recall anything.  
 21 Q Now, as I understand it, you were a  
 22 longer snapper, and sometime during the third  
 23 quarter, Wicksburg was punting the ball, and you  
 24 snapped the ball, the punter punted, and you  
 25 were going down the field to tackle a returner,

Page 13

1 and missed the returner or something like that,  
2 and some of the coaches began correcting you?  
3 Do you remember that?

4 A No, sir.

5 Q Okay. Do you remember the coaches  
6 taking you on the sidelines and explaining to  
7 you how you had missed your assignment or  
8 anything?

9 A No, sir.

10 Q Okay. Josh, do you remember -- or do  
11 you know a Coach Smith, at Wicksburg?

12 A Yes, I do.

13 Q Okay. And was Coach Smith one of your  
14 position coaches?

15 A No, sir.

16 Q He was not?

17 A He was not.

18 Q Okay. What positions did he coach?

19 A If I recall, I think he was a wide  
20 receiver coach.

21 Q Did he have anything to do with the  
22 punt team?

23 A No, sir.

24 Q Okay. Did you have any problems with  
25 Coach Smith?

Page 14

1 A No, sir.

2 Q Had y'all always gotten along?

3 A Yes, sir.

4 Q You'd never had any arguments with him  
5 or any reason to dislike him?

6 A Huh-uh. Not at all.

7 Q Josh, are you aware that lots of  
8 people claim that you hit Coach Smith, when you  
9 were coming off the field, after that punt? Do  
10 you remember that?

11 A No, I do not remember that incident.

12 Q Do you remember another coach trying  
13 to restrain you and keep you and Coach Smith  
14 from getting into an altercation?

15 A No, sir.

16 Q So, as you sit here today, do you deny  
17 that you hit Coach Smith?

18 A I mean, I can't recall that, because I  
19 had a concussion that night. I mean, I can't  
20 deny anything.

21 Q Okay. So, you --

22 A I mean, I've never seen the films for  
23 the game.

24 Q Okay. But you're not denying that you  
25 did hit him, you just can't remember?

Page 15

1 A I mean -- rephrase that question.

2 Q Okay. Okay. Just a simple "yes" or  
3 "no" question. Do you deny hitting Coach Smith?

4 A I mean, that's a trick question, all  
5 the way around, you know. You know that.

6 Q No. Josh, did you hit Coach Smith?

7 A No.

8 Q So, your testimony is that you did not  
9 hit Coach Smith?

10 A Yes, sir.

11 Q Did you ever hit a coach trying to  
12 restrain you, when you were talking to Coach  
13 Smith?

14 A No.

15 Q Do you remember a coach trying to  
16 restrain you at all, on the sideline?

17 A No.

18 Q So, you wouldn't know who that coach  
19 was?

20 A No.

21 MR. MOODY: Let me have just a second  
22 to look over something, please.

23 Let's take a break just a second.

24 (Recess in deposition.)

25 Q Josh, do you know a Coach Carter, that

Page 16

1 was a coach on that night, at Wicksburg?

2 A Yes, sir.

3 Q Was Coach Carter one of your position  
4 coaches?

5 A No, sir.

6 Q What position did he coach?

7 A I believe he coached the linebackers.

8 Q Okay. Coach Carter's statement is  
9 that you -- or that he tried to restrain you,  
10 and that you punched him with your fist and  
11 knocked his glasses off. Do you remember doing  
12 that?

13 A No, sir.

14 Q Do you know of any reason Coach Carter  
15 would say that, if it wasn't the truth?

16 A No. I mean --

17 Q Okay. Had you ever had any previous  
18 arguments or disagreements with Coach Carter?

19 A No, sir.

20 Q Do you deny that you hit Coach Carter?

21 A Yes.

22 Q Okay. Josh, do you remember throwing  
23 your helmet at anybody? Any of the coaches or  
24 any other players?

25 A No.

Page 17

1 Q Okay. Do you know at what point the  
2 policemen got involved on the sidelines?  
3 A No. I do not remember that at all.  
4 Q Are you aware that they did?  
5 A I was told that, afterwards, yes, sir.  
6 Q Okay.  
7 A Actually, I was told the game warden  
8 escorted me off the field.  
9 Q Okay. But you are aware that you were  
10 escorted off the field by some type of law  
11 enforcement --  
12 A Not that night.  
13 Q But, right now, as we sit here today,  
14 you're aware that --  
15 A Yes, sir.  
16 Q -- some law enforcement official  
17 escorted you off the field?  
18 A Yes.  
19 Q Okay. And do you recall asking to  
20 come out of the game at any point?  
21 A No, sir.  
22 Q Do you recall wanting to stay in the  
23 game?  
24 A No, sir.  
25 Q The coaches have stated that they

Page 18

1 actually pulled you out of the game, and that  
2 you then tried to go back in the game. Do you  
3 remember any of that happening?  
4 A No, sir.  
5 Q Do you deny that that happened?  
6 A I mean, I can't recall. I mean, I  
7 can't deny that or not.  
8 Q And, as a result of all of this stuff,  
9 all these instances in the game, Josh, were you  
10 arrested for that?  
11 A No, sir.  
12 Q Have you ever been arrested for  
13 anything else?  
14 A No, sir.  
15 Q Now, after the game, I understand that  
16 you went to see a doctor? Do you remember that?  
17 A Yes. That was on Monday.  
18 Q Do you remember which doctor you went  
19 to see?  
20 A It was Dr. Tamburin.  
21 Q And how many times did you visit Dr.  
22 Tamburin, regarding the injuries you got that  
23 night?  
24 A I believe three or four.  
25 Q Do you recall how close in time to the

Page 19

1 football game those visits were?  
2 A There was one that following Monday,  
3 and then, I believe, two or three weeks later.  
4 Q So, they would have all been within a  
5 month or so of the --  
6 A Yes, sir.  
7 Q -- incident? Josh, did you see any  
8 other medical doctors, concerning the injuries  
9 you may have received at the football game?  
10 A No.  
11 Q Did you see any counselors, or mental  
12 health professionals, about the game?  
13 A Yes, sir.  
14 Q And who did you see, Josh?  
15 A Allen Freet.  
16 Q And how many times did you meet with  
17 Mr. Freet?  
18 A Twice, I believe.  
19 Q Okay. And do you remember Mr. Freet  
20 ever testifying on your behalf at a board  
21 meeting?  
22 A Yes, I do.  
23 Q Do you remember -- well, let me ask  
24 you this: Do you remember attending any  
25 meetings for disciplinary committees or

Page 20

1 anything, with the Houston County Board of  
2 Education, or Wicksburg High School, concerning  
3 the football game on September 16th of '05?  
4 A I attended one. And that was the  
5 expulsion -- Houston County Board expulsion  
6 meeting.  
7 Q So, you did not attend a meeting at  
8 Wicksburg High School?  
9 A No, sir.  
10 Q And at the expulsion meeting with the  
11 Houston County Board, that you attended, do you  
12 recall who all testified on your behalf, there?  
13 A Yes.  
14 Q Could you name those people for me,  
15 please?  
16 A My dad. And, of course, I testified.  
17 Q Anybody else?  
18 A That's it, I believe.  
19 Q Did Mr. Freet testify?  
20 A Yes, he did.  
21 Q Okay. And did you have an attorney  
22 there representing you, Josh?  
23 A Yes, sir.  
24 Q And you and your dad and Mr. Freet and  
25 your attorney were allowed to represent you and



Page 21

1 put evidence, showing your side of the story,  
 2 before the board? Correct?  
 3 A Yes.  
 4 Q Okay. And nobody from the board  
 5 stopped y'all from being able to present  
 6 evidence? Correct?  
 7 A No.  
 8 Q And, Josh, after you were expelled,  
 9 you attended Dixie Academy, in Louisville? Is  
 10 that right?  
 11 A Yes, sir.  
 12 Q Did you like Dixie Academy?  
 13 A As soon as I got used to everybody,  
 14 yes, I did.  
 15 Q And did you continue playing  
 16 athletics, at Dixie Academy?  
 17 A I did.  
 18 Q And where did you stay, while you were  
 19 attending Dixie Academy?  
 20 A I stayed with my aunt and uncle.  
 21 Q Can you give me their names, please?  
 22 A John and Peggy Beatty.  
 23 Q Now, is this the same uncle that owns  
 24 the --  
 25 A Yes, it is.

Page 22

1 Q -- the pest control service?  
 2 A Yes, sir.  
 3 Q Okay. And that is Circle B Pest  
 4 Control, that you are currently employed with?  
 5 A Yes, sir.  
 6 Q Now, Josh, there's a claim for the  
 7 cost of attending Dixie Academy and for travel  
 8 and tuition and room and board. Have you seen  
 9 the estimate of those costs that y'all have  
 10 provided to the board?  
 11 A Yes, I have. I'm not sure exactly  
 12 what they are.  
 13 Q And are you aware that, at the time  
 14 you were staying with your aunt and uncle, you  
 15 and your family were paying them money for room  
 16 and board?  
 17 A Yes.  
 18 Q Okay. Josh, let's talk about your  
 19 personality after the accident, or the incident,  
 20 here. Did you have any kind of personality  
 21 changes after this football game?  
 22 A What do you mean? What time frame are  
 23 you talking about?  
 24 Q Let's start from immediately after and  
 25 go through the next little while. I mean, were

Page 23

1 you depressed about the game?  
 2 You went to see a counselor. Could you  
 3 tell me why you thought you needed to go see a  
 4 counselor?  
 5 A I mean, I was depressed. I mean,  
 6 friends I had been with for since kindergarten,  
 7 just are going to be gone. I mean, I wouldn't  
 8 be seeing them every day, five days out of the  
 9 week.  
 10 Q Okay. Well, now, these are the same  
 11 friends that you said -- you testified earlier,  
 12 had already quit talking to you? Correct?  
 13 A Yeah.  
 14 Q Okay.  
 15 A And I'm not seeing them five days of  
 16 the week, either.  
 17 Q Now, when you met with Mr. Freet, do  
 18 you recall how many times you met with him  
 19 before he testified on your behalf at the board  
 20 hearing?  
 21 A One time, before that.  
 22 Q And do you recall about how long that  
 23 meeting lasted?  
 24 A The Houston County Board meeting?  
 25 Q I'm sorry. The meeting with Mr.

Page 24

1 Freet?  
 2 A About an hour and a half, I believe.  
 3 An hour, hour and a half.  
 4 Q Okay. And did anyone else attend that  
 5 meeting at Mr. Freet's office, other than just  
 6 you?  
 7 A It was just me and him.  
 8 Q Okay. Did your mother attend at all?  
 9 A She was there. I think she was in the  
 10 lobby.  
 11 Q Okay. And was Mr. Freet taking notes  
 12 and diarying things that you were telling him?  
 13 A Yes, sir.  
 14 Q And do you think that what Mr. Freet  
 15 was writing down and keeping in his records  
 16 would accurately reflect the conversation that  
 17 you and him had?  
 18 A Yes, sir.  
 19 Q Okay. Are you still claiming to have  
 20 any psychological or emotional problems today,  
 21 as a result of the incident?  
 22 A Oh, yeah. Yes, sir.  
 23 Q Could you please describe those for  
 24 me?  
 25 A I lost a year's relationship with a

Page 25

1 girl that I had, at seventeen, beginning with my  
2 junior year. I mean, there's friends I don't  
3 even see any more.

4 Q Okay. Josh, this relationship, did  
5 you end it or did the girl end it?

6 A I did.

7 Q Okay. So, you chose to end this  
8 relationship?

9 A Yeah. I couldn't put her through  
10 this. How do you drag a girl through an  
11 emotional trip like this?

12 Q Okay. So, you ended the relationship  
13 with your girlfriend?

14 A (No audible or visible answer.)

15 Q And are you saying that the friends  
16 that had already quit talking to you, are no  
17 your longer friends, now?

18 A Right. I mean, if this incident  
19 wouldn't have never happened, I'm sure we would  
20 still be friends. I mean, people get sort of an  
21 opinion of you, and that's how things work out.

22 Q How many total times have you seen Dr.  
23 Freet? Or Mr. Freet? Mr. Freet?

24 A Two or three times, as I recall.

25 Q Are you currently seeing anyone --

Page 26

1 A No, sir.

2 Q -- for psychological or emotional  
3 problems?

4 A No, sir.

5 Q Have you seen anyone other than Mr.  
6 Freet, at any time, for psychological or  
7 emotional problems?

8 A No, sir.

9 Q Could you specifically describe for me  
10 the psychological and emotional problems that  
11 you're having? The symptoms you're experiencing  
12 and --

13 A Right now, as of today?

14 Q Let's go back to when you were seeing  
15 Mr. Freet? Let's start there.

16 A I mean, I couldn't talk to anybody. I  
17 was -- you know. At that time, I couldn't go to  
18 school. They took me out of all of my classes.

19 Q Were you able to still talk to your  
20 family?

21 A Yes.

22 Q Were there any friends at school, that  
23 still kept in touch with you or that you kept in  
24 touch with?

25 A No.

Page 27

1 Q None at all?

2 A I take that back. One. He was my  
3 best friend since kindergarten.

4 Q What was his name?

5 A James Purvis.

6 Q Is that Purvis?

7 A Yes.

8 Q Okay. And are you and James still  
9 friends, today?

10 A Yes.

11 Q Did he attend Wicksburg High School  
12 during this time?

13 A He did.

14 Q Josh, you've testified that these  
15 friends quit talking to you. Did you ever try  
16 to contact any of your friends at Wicksburg,  
17 after this incident that we're here about today?

18 A I mean, if I saw them, like, on the  
19 street or something, I'd try. But, I mean, they  
20 didn't want any part of me.

21 Q So, you never picked up the phone and  
22 called some of your old friends and --

23 A No. I didn't have any of their  
24 numbers.

25 Q Okay.

Page 28

1 A I mean, the only person I had a number  
2 to was James. He was the one that stuck beside  
3 me the whole time.

4 Q Did James remain friends with some of  
5 your other friends?

6 A He had different friends than I did.

7 Q So, as I understand it, your testimony  
8 is that you didn't try to contact any of your  
9 friends at Wicksburg, after the football game,  
10 because you didn't have their phone numbers and  
11 you just never ran into them?

12 A Right.

13 Q Did you ever try to go to any of the  
14 hang-out spots or places where the friends  
15 usually went?

16 A I mean, I moved to, like, 60 miles  
17 away. That's an hour from where I lived. You  
18 know, that's an hour drive, just --

19 Q Right.

20 A -- to even try to get with all my  
21 friends. I mean --

22 Q Did you ever come back -- or, once you  
23 went to Louisville, did you ever come back to  
24 Wicksburg?

25 A Like just the --

Page 29

Page 31

1 Q For the weekend?

2 A Oh, yes. To see my family. When I  
3 could.

4 Q Did you ever try to see James Purvis  
5 or any of your other friends, when you were back  
6 home on those weekends?

7 A I tried. Just James.

8 Q James was the only one you tried to  
9 see?

10 A Well, that's the only one that would  
11 actually see me, so --

12 Q But did you try --

13 A I mean, everybody else -- I mean, I  
14 couldn't try. I didn't have phone numbers for  
15 everybody else, for me to contact them.

16 Q You didn't know where any of them  
17 lived, or James didn't know where they were  
18 hanging out or anything of that nature?

19 A No. I mean, like I say, he had  
20 different friends. I mean --

21 Q Okay.

22 A -- than I did.

23 Q Josh, from the documents that you all  
24 have provided, you discussed incidents at  
25 Wicksburg High School, where teachers or staff

1 described this situation to you, as far as what  
2 C. supposedly did?

3 A They just told me that -- I mean, they  
4 didn't go into real details with me.

5 Q Okay. Do you know a Ms. Sanders,  
6 Josh?

7 A Yes, I do.

8 Q And is she employed at Wicksburg High  
9 School?

10 A At this time?

11 Q At the time of -- well, is she  
12 employed there, now?

13 A I'm not sure.

14 Q Okay. Are you aware of an incident  
15 involving her and a student named L., where L.  
16 supposed kicked her in the buttocks?

17 A I heard about the incident.

18 Q Do you know when that event supposedly  
19 occurred?

20 A I'm not sure.

21 Q Was it before the September 16th, 2005  
22 football game and your disciplinary procedures  
23 that followed?

24 A Yes, I believe so.

25 Q Now, did you know L.?

Page 30

Page 32

1 were hit or bumped by a student, and y'all are  
2 claiming that those students didn't receive the  
3 same type of punishment that you did. Are you  
4 aware of any instances like that?

5 A Yes, I am. What I've been told.

6 Q Okay. Do you know Ms. Judy Joiner?

7 A Yes, I do.

8 Q And who is she?

9 A She is a sixth-grade teacher. I had  
10 her when I was in sixth grade.

11 Q So, she's at Wicksburg Elementary?

12 A Yes.

13 Q And are you aware of an incident  
14 involving her and a C. L.?

15 A Like I say, somebody told me that.

16 Q Okay. So, do you know C. L.,  
17 personally?

18 A Not personally.

19 Q Is it your understanding that he was a  
20 sixth-grade student of Ms. Joiner's?

21 A Yes.

22 Q And do you remember who told you about  
23 this situation?

24 A I believe my parents did.

25 Q Okay. And do you recall how they

1 A I know of him. I didn't know him like  
2 a friend.

3 Q Do you know his last name?

4 A No, I couldn't -- I can't recall his  
5 last name.

6 Q Was this L. in your same grade, or was  
7 he older or younger?

8 A Actually, he was in our grade, and he  
9 failed.

10 Q Okay.

11 A He was in the grade below me.

12 Q And do you remember -- or do you  
13 recall what school year you would have been in,  
14 when this incident happened? Like when you were  
15 a senior or a junior or --

16 A I believe I was a senior when it  
17 happened.

18 Q All right. Josh, at the beginning of  
19 the school years, do you remember getting a copy  
20 of the student code of conduct?

21 A Yes, I do.

22 Q Do you remember getting one at the  
23 beginning of the 2005 and 2006 school year?

24 A Yes.

25 Q And did you read that student code of

Page 33

1 conduct?

2 A I've read it every year we've had it.  
3 Since I've been able to read.

4 Q And did you sign the back page of the  
5 handbook, stating that you had read it and  
6 understood it?

7 A Yes, sir.

8 Q And did you have your parents sign  
9 that document?

10 A Yes, sir.

11 Q And then, did you return that to  
12 Wicksburg High School?

13 A Yes.

14 Q Okay. Were you aware that hitting or  
15 physically contacting a teacher was punishable,  
16 according to the student code of conduct?

17 A Yes.

18 Q And would you think it would be  
19 appropriate for a student to ever hit or  
20 physically contact a teacher?

21 A No.

22 Q Josh, were you being recruited or  
23 sought after by any colleges, for athletic  
24 scholarships or anything like that?

25 A Yes, sir. Spring training, my junior

Page 34

1 year, for Head Coach Phillip Mitchell, Alabama  
2 State was calling about me.

3 Q Okay. Do you know if anyone was  
4 recruiting you, actively, during the fall of --  
5 or the football season of 2005?

6 A Not that I know of.

7 Q You weren't receiving letters --

8 A 2005 or -- oh, yeah, 2005.

9 Q Yes?

10 A No, I don't. That's all I knew of.

11 Q You weren't receiving letters from  
12 schools, asking for films or anything of that  
13 nature?

14 A I did during the spring training that  
15 year, of 2005.

16 Q Okay.

17 A That's how Alabama State got in touch  
18 with us.

19 Q Okay. So, you had spring training?

20 A Uh-huh.

21 Q And you were getting letters from  
22 Alabama State? And this was the end of the  
23 junior year?

24 A Yes, sir.

25 Q Then, you had your summer break?

Page 35

1 A Yes, sir.

2 Q And you came back at the start of the  
3 2005 season?

4 A Right.

5 Q Okay. And, after the season started,  
6 you don't recall getting recruitment letters or  
7 visits from any other schools?

8 A No.

9 Q Okay. Josh, did you ever use any kind  
10 of supplements -- and I don't mean illegal  
11 things -- but Ripped Fuel or Hydroxycut, Met-Rx,  
12 that kind of stuff?

13 A Never used it.

14 Q Never used any of that?

15 A (Witness shaking head in negative.)

16 Q Did you ever use any protein shakes or  
17 any kind of supplements like that, on a regular  
18 basis?

19 A No, sir.

20 Q Okay. And, Josh, have you ever used  
21 steroids, in your athletic competitions?

22 A No, sir.

23 Q Okay. So, were you using supplements  
24 or steroids on the night of the game that's the  
25 basis of this claim?

Page 36

1 A No, sir.

2 Q Josh, at the September 16th football  
3 game, was Wicksburg, were they winning that  
4 game? Or did they win that game?

5 A I mean, I can't recall that. I had a  
6 concussion. I didn't -- I don't remember  
7 anything.

8 Q Looking back on it, as we sit here  
9 now, do you know whether they won or lost that  
10 game?

11 A Oh, I know they lost, now.

12 Q And Coach Winchester was the head  
13 coach at the time that this football game  
14 occurred? Correct?

15 A Yes, sir.

16 Q Now, did you have any ill will or bad  
17 feelings toward Coach Winchester?

18 A What do you mean by bad feelings?  
19 Like any arguments before, or --

20 Q Yes?

21 A Or any confrontations before that?

22 Q Had you ever confronted Coach  
23 Winchester about anything?

24 A Yes, sir, I did.

25 Q And describe that confrontation for

Page 37

1 me?

2 A That week, actually, before that  
3 football game, there was an incident, I believe,  
4 Monday, and they were trying to do a chop block  
5 on me.

6 I was playing defensive end. And one boy  
7 was going to take out my knees and one push me  
8 over.

9 And we were at practice, and the boy that  
10 was actually -- he wouldn't do it to me, but, he  
11 told me that Coach Winchester told him that he  
12 needed to do that to me. And he told me, when  
13 we had a water break or something, he told me  
14 what happened. What he told them.

15 Q And then, did you confront Coach  
16 Winchester about this?

17 A No. I actually took it to the  
18 principal, Jim Murray, and confronted him about  
19 it, and he didn't seem too -- too worried about  
20 anything. And then, we --

21 Q Josh, can you describe a chop block  
22 for the record?

23 A I mean -- I've never done one, but I  
24 know what they're talking about. The chop block  
25 is where, actually, the player takes and hits

Page 38

1 your knee, right here at the joint, and another  
2 one hits you the other way, so it tears up your  
3 knee. Tears all your ligaments out.

4 Q Sometimes?

5 A Yeah. Most of the time. That's why  
6 football players wear knee braces.

7 Q Now, Josh, was Coach Winchester -- I  
8 know he was the head coach. Was he also an  
9 offensive line coach?

10 A He was the quarterback/running back  
11 coach.

12 Q So, this was just something that he  
13 was instructing the linemen to do, as a head  
14 coach?

15 A Well, it was actually -- it was like  
16 first string defense. We had a bunch of younger  
17 guys on the other side. And some older ones  
18 that didn't -- that wasn't on first string  
19 defense. They was telling them how to do it in  
20 a huddle.

21 Q Okay. See if I'm describing this  
22 accurately. You were on the first team  
23 defensive squad?

24 A Correct.

25 Q And there were some offensive players,

Page 39

1 the backups, that were trying to run plays --

2 A Right.

3 Q -- for y'all to practice with? And  
4 they were having trouble stopping the first team  
5 defense?

6 A Correct.

7 Q So, the coach told them, one way to  
8 stop it is to chop block?

9 A Me, in particular. Just me  
10 singularly, actually.

11 Q Okay. You had played on offensive  
12 line before? Correct?

13 A Correct.

14 Q Were you a first string offensive  
15 lineman?

16 A All except for my ninth-grade year.

17 Q Okay. Had you ever chop blocked  
18 anybody?

19 A No.

20 Q Never?

21 A Never. I would never do that to  
22 anyone.

23 Q Okay. After you talked to Mr. Murray  
24 about this chop block incident, did you ever  
25 hear from Coach Winchester?

Page 40

1 A Actually, me and Mr. Murray went down  
2 there to his office, and he just didn't have  
3 anything to say about it.

4 Q He didn't --

5 A He said he would never do anything  
6 like that to me.

7 Q Okay. After that incident, did Coach  
8 Winchester confront you, away from Mr. Murray,  
9 at all? Did you and Coach Winchester ever have  
10 a one-on-one conversation, concerning the chop  
11 block incident?

12 A No.

13 Q Okay. Do you think that Coach  
14 Winchester wanted you to be hurt?

15 A Yes, I do.

16 Q You think that he wanted one of his  
17 starting defensive and offensive linemen to be  
18 hurt?

19 A Yes, I do.

20 Q Why would you feel that way, Josh?

21 A He was just that type of coach. He  
22 didn't --

23 Q He was the type of coach that wanted  
24 his starting football players to be injured, so  
25 they couldn't play and win?



Page 41

1 A Yeah. I mean, when he was down with a  
 2 team in Florida, he actually ran a play, which  
 3 he had to resign from. Or they actually fired  
 4 him from that school, because of an incident  
 5 like that.  
 6 Q Okay. Well, now, were there any other  
 7 coaches on that team that you think wanted you  
 8 to be hurt?  
 9 A No.  
 10 Q Okay. So, the only coach that you  
 11 would have -- or on the night of the football  
 12 game, the only coach that you would have had any  
 13 bad feelings toward, would have been Coach  
 14 Winchester?  
 15 A Yes.  
 16 MR. MOODY: Okay. I think that's --  
 17 MR. WALDING: Let's take a break.  
 18 MR. MOODY: Yeah, let's take a break.  
 19 (Recess in deposition.)  
 20 Q Josh, you've testified today that you  
 21 don't remember a lot of things, because you had  
 22 a concussion that you got the night of the  
 23 football game? Is that correct?  
 24 A Correct.  
 25 Q And who told you that you had a

Page 42

1 concussion?  
 2 A Dr. Tamburin.  
 3 Q Did he use those exact words, that,  
 4 "You have a concussion"?  
 5 A Yes.  
 6 Q Okay. Josh, I want you to look at  
 7 these documents on Defendant's Exhibit 4. Do  
 8 you recognize those?  
 9 A Are you talking about here?  
 10 Q Do you recognize seeing those  
 11 documents at all?  
 12 A Yes, sir.  
 13 Q Do you know what those documents are?  
 14 Are those documents that y'all have provided the  
 15 Houston County Board of Education, because of  
 16 this lawsuit?  
 17 A Yes. It looks like it.  
 18 Q Okay. And if you will flip --  
 19 A To the last page? Right here?  
 20 Q Well, if you'll flip to the second to  
 21 the last page? Will you just read the heading  
 22 of that, so we can identify what document we're  
 23 talking about?  
 24 A "Dothan Pediatric Clinic."  
 25 Q Okay. And then, can you read that

Page 43

1 line there for me?  
 2 A This right here, where it has my name?  
 3 Q Yes?  
 4 A "Davis, Joshua C. Chart number 50334.  
 5 Date of birth: 04/17/1988."  
 6 Q And is that Dr. Tamburin's report,  
 7 concerning you?  
 8 A It looks like that.  
 9 Q Okay. Can you review that document in  
 10 the next couple of moments, and show us where he  
 11 diagnosed you as having a concussion?  
 12 A I don't see it right here. I don't  
 13 see it directly in here.  
 14 Q Okay.  
 15 A "Sounds like this child has a  
 16 concussion with possible LOC."  
 17 Q Okay. But you don't see in that  
 18 report anywhere, where the doctor says, "Josh  
 19 Davis is suffering from a concussion as a result  
 20 of a football game"?  
 21 A No, I do not see that.  
 22 Q Okay. Thank you. And I wanted to ask  
 23 you about -- let me take back from you, so you  
 24 can focus on me, here.  
 25 I want to go back over with you some of

Page 44

1 your meetings with Dr. Freet --  
 2 MR. WALDING: Mr. Freet.  
 3 Q Mr. Freet. Mr. Freet has some facts  
 4 in his report of things that happened at the  
 5 football game. Did you tell him those things?  
 6 A I mean, I -- what kind of facts are  
 7 you talking about? I don't know.  
 8 Q He says -- he's referring to you  
 9 playing both ways. Pulled out of game. Coach  
 10 -- there's a sentence that I just can't make out  
 11 right now. Then, it says, "Taken out. Next  
 12 thing remember, coach had hold of him." And  
 13 then, quotations, "Don't ever fucking touch me.  
 14 Another coach grabbed me from behind." And I  
 15 believe --  
 16 A I mean, playing both ways is pretty  
 17 obvious. The other one is what my parents told  
 18 me.  
 19 Q Okay. So, did you tell Mr. Freet that  
 20 phrase?  
 21 A Yes. I mean, that's the things my  
 22 parents told me I said and stuff.  
 23 Q Your parents had told you that you  
 24 said that?  
 25 A Yes.

Page 45

1 Q Okay.  
 2 A That's what happened. I mean, playing  
 3 both ways is obvious. I did that since the  
 4 beginning of the year.  
 5 Q Did anyone else tell you that you had  
 6 said things like that?  
 7 A I mean, at the board meeting, the  
 8 coaches said that.  
 9 Q Did any other Wicksburg students at  
 10 that game ever tell you that you said things of  
 11 that nature?  
 12 A No.  
 13 Q Okay.  
 14 A Like -- again, like I say, I didn't  
 15 have contact with them after that.  
 16 Q But, just to make sure, your parents  
 17 told you --  
 18 A I mean, they told me what happened at  
 19 the game. I mean --  
 20 Q Okay.  
 21 A I wasn't going into a board meeting  
 22 just not knowing what was going on.  
 23 Q Right. But your parents -- or let me  
 24 make sure I understand your testimony. Your  
 25 parents told you that one of the things you said

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1 at the football game was, "Don't ever fucking  
 2 touch me." And then, another coach grabbed you  
 3 from behind?  
 4 A Yes.  
 5 Q Okay. And, Josh, would that be  
 6 something appropriate for a student to tell a  
 7 teacher or a coach?  
 8 A I mean -- no.  
 9 Q Just "yes" or "no"?  
 10 A No.  
 11 MR. MOODY: Okay. That's all I have.  
 12  
 13 EXAMINATION  
 14  
 15 BY MR. NEWMAN:  
 16 Q Okay. Josh, I want to go over a few  
 17 things with you, just by way of background.  
 18 You've already testified that you had gone  
 19 to this school from the time of kindergarten to  
 20 the eleventh grade, and a few weeks into your  
 21 senior year?  
 22 A Correct.  
 23 Q And were you involved in, say, any of  
 24 the activities of the student body, other than  
 25 playing sports at school?

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1 A Yes, I was.  
 2 Q Now, what other things were you  
 3 involved in?  
 4 A I was in the student council. I was  
 5 one of the members that represented the class.  
 6 I was voted best personality in my senior class.  
 7 Q Were you ever involved in the Future  
 8 Farmers of America organization?  
 9 A Yes, sir.  
 10 Q In what capacity were you involved in  
 11 that? As a member, or an officer of the group  
 12 or anything?  
 13 A I was a member. I would have been an  
 14 officer that year.  
 15 Q What about the Beta Club?  
 16 A I wasn't in that. I was going to join  
 17 that year.  
 18 Q And you were voted by your other  
 19 classmates as best personality?  
 20 A Yes, sir.  
 21 Q You feel like you had a good  
 22 relationship with all your classmates?  
 23 A Yes, sir.  
 24 Q By and large, were these kids that you  
 25 had grown up with, there at Wicksburg?

Page 48

1 A Yes, sir.  
 2 Q Were you ever class representative to  
 3 the student government association?  
 4 A Yes, sir, I was.  
 5 Q When you were expelled and started  
 6 going to school up at Dixie Academy, would you  
 7 come home every weekend?  
 8 A Not every weekend.  
 9 Q Let me back up a little bit. What  
 10 were your grades like at Wicksburg?  
 11 A I mean, I had an A, B average.  
 12 Q Pretty consistently, throughout high  
 13 school?  
 14 A Yes, sir.  
 15 Q And you said, earlier, on direct, that  
 16 you had been recruited, or at least a school had  
 17 expressed interest, from a football standpoint?  
 18 A Correct.  
 19 Q And that was Alabama State?  
 20 A Yes, sir.  
 21 Q Any other schools?  
 22 A Yes. I received letters from  
 23 Princeton and a lot of Division 2A Ivy League  
 24 schools.  
 25 Q Did you get any -- was that for your

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1 athletics, or for your combination athletics and  
2 academics?

3 A Just for athletics.

4 Q Okay. Did you get any letters that  
5 were clearly because of your grades? You were a  
6 good student, so, they were writing to you,  
7 trying to get you interested in --

8 A Right. I mean, I got information from  
9 Troy and Auburn and Alabama and places like  
10 that.

11 Q Okay. Did you expect your teammates,  
12 former teammates at Wicksburg, to behave in a  
13 certain way toward you, after you got expelled?

14 A What do you mean by that?

15 Q Well, they had been your teammates for  
16 a while, hadn't they?

17 A Right.

18 Q Did you think they were going to kind  
19 of support you?

20 A Yes.

21 Q And how did you feel, when that didn't  
22 happen?

23 A I was really depressed. It goes back,  
24 you know, friends for so many years, and then,  
25 this happened, they all turned against me.

Page 50

1 Q From a -- well, let me rephrase that.  
2 When there are community kind of events in  
3 Wicksburg, do you go to them, now?

4 A No.

5 Q Why not?

6 A Because everybody there, you know,  
7 looks at me a different way than before.

8 Q Do you feel they're looking at you in  
9 a negative light?

10 A Yes, sir.

11 Q So, you avoid going to community  
12 events?

13 A Yes, sir.

14 MR. NEWMAN: Okay. That's all.

15

16 EXAMINATION

17

18 RESUMED BY MR. MOODY:

19 Q Just a few more questions on that  
20 following-up and clarifying, Josh.

21 These schools that you had talked about  
22 that had recruited you athletically and  
23 academically, what time frame were these people  
24 recruiting you? Would it have been your junior  
25 year, or your --

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1 A Yes. I was a junior, right there at  
2 the end, at spring training.

3 Q Okay. Now, after you went to Dixie  
4 Academy, did you still have contact with any of  
5 these schools?

6 A No. I mean, it was my senior year and  
7 this other coach transferred out. Or actually  
8 -- yeah, he transferred out. And I didn't have  
9 any contact from that --

10 Q So, during your senior year --

11 A -- after the new coach came in.

12 Q During your senior year, you had no  
13 contact from any schools, about scholarships?

14 A Not that I know of.

15 Q Okay. When you went to Dixie, what  
16 were your grades up there like?

17 A It was A, B. It was consistent.

18 Q Okay. So, you were making good grades  
19 at Dixie and good grades at Wicksburg?

20 A Correct.

21 Q Okay. Did you receive any scholarship  
22 offers or interest, academically, from Troy or  
23 Auburn or some of the other schools you  
24 mentioned earlier, once you went to Dixie?

25 A No, I didn't.

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1 Q Okay. Josh, your teammates and the  
2 kids that you grew up with, that voted you to  
3 some of these achievements that you had, about  
4 best personality and they'd elected you to SGA  
5 positions and all that, with the exception of  
6 your friend, James, the rest of these kids  
7 didn't have any communication with you, after  
8 the incident?

9 A Correct.

10 Q Okay. And you had known these kids  
11 your whole life, but you didn't have any of  
12 their phone numbers or any way to contact any of  
13 them?

14 A I mean, I saw them at school every  
15 day. But they were people I played basketball  
16 games and football with, so, we hung out before  
17 practice and stuff like that.

18 Q And so, you never -- knowing them your  
19 whole life, though, you didn't know where any of  
20 them lived, or you didn't feel like you could  
21 stop by their homes --

22 A I mean, I knew where a lot of them  
23 lived. But, I mean, it's kind of weird for  
24 somebody that gets kicked out of school and just  
25 knock on your door and --

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1 Q So, you did have ways to get in touch  
2 with your friends -- your lifelong friends and  
3 your teammates?

4 A Right. If I would go to their house.

5 Q So, you did have ways to get in touch  
6 with them? Correct?

7 A Correct.

8 Q But you chose not to?

9 A Yes.

10 Q And, Josh, what else did your parents  
11 tell you happened at the football game, other  
12 than this statement that we've read earlier from  
13 Mr. Freet?

14 A I mean, they just explained to me what  
15 happened.

16 Q And how did they explain what  
17 happened?

18 A They said I was running off the field.  
19 When I came off the field, I bumped into Coach  
20 Smith, and then, he turned around and was  
21 pushing me back. And then, Coach Carter came in  
22 between us, and then, pushed me back against the  
23 fence. And they said there was a bench there,  
24 and I sat down on it. And then, when he left, I  
25 stood up and my shoulder pads hit him in the

Page 54

1 eye.

2 Q And did they tell you any other  
3 instances of you using profanity towards one of  
4 the coaches?

5 A Yeah. I mean, they told me that,  
6 what's in there.

7 Q But other than the sentence, "Don't  
8 ever fucking touch me," followed by, "another  
9 coach grabbing me from behind" --

10 A They never told me any other --

11 Q Okay. Josh, the different  
12 relationship between your teammates and your  
13 friends, that happened after this incident, do  
14 you think that they look at you differently  
15 because you were expelled, or do you think it  
16 was because of your behavior on the night of the  
17 game, and that they're trying to distance  
18 themselves from that behavior?

19 A More because I got expelled. I mean  
20 -- I mean, you go from being at school -- I  
21 don't know how many days it is. I mean -- 45  
22 times 4. I mean, you're looking at that, going  
23 five days out of the week --

24 Q No, Josh --

25 A -- and you're with them all that time,

Page 55

1 and now, you're just gone.

2 Q Now, Josh, are you saying that the  
3 relationship between you and your friends just  
4 grew apart because you were not in school, or  
5 are you saying that, because of the incident of  
6 this game, they made a conscious effort to start  
7 treating you differently?

8 A I mean, it was a little bit of both.

9 Because you're looking -- you know, not every  
10 high school student and everybody there attend a  
11 football game. You know what I'm saying?

12 So, everybody else is sort of -- it's more  
13 hearsay. And you're getting coaches and  
14 teachers and stuff saying stuff that never  
15 happened, and they're getting the wrong  
16 impression about me.

17 Q Okay. Well, now, Josh, your teammates  
18 were certainly at the football game?

19 A Right.

20 Q And they saw what happened?

21 A Right.

22 Q Correct?

23 A (Witness nodding head in affirmative.)

24 Q Okay. And, you know --

25 A But, I mean, it -- the same thing. I

Page 56

1 mean, who would have saw it.

2 Q Right. But some of your teammates saw  
3 what was going on?

4 A And, there again, it's just hearsay.  
5 You know how stuff, rumors, get around.

6 Q But you'll admit that some of your  
7 teammates had to have seen what happened on the  
8 sideline?

9 A Yes. Of course. I'm sure.

10 Q And these were your teammates that you  
11 played football with your whole career there at  
12 Wicksburg, and you're saying that none of them  
13 continued to be friends, because of the events  
14 that happened that night?

15 A Correct.

16 MR. MOODY: Okay. I think that's all  
17 I've got.

18 MR. NEWMAN: All right.

19

20 END OF DEPOSITION

21

22

23

24

25

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DEFENDANT'S EXHIBIT NO. 4

Page 58

1 STATE OF ALABAMA

2 HOUSTON COUNTY

3

4 I, John G. Whitfield, Court Reporter and  
5 Notary Public, State at Large, do hereby certify  
6 that the foregoing transcript, pages 1 through  
7 57, is a true and correct transcript of the  
8 testimony and proceedings taken at said time and  
9 place; and that the same was taken down by me in  
10 stenograph shorthand, and transcribed by me  
11 personally or under my personal supervision.

12 I further certify that I have no interest  
13 in this matter, financial or otherwise, or how  
14 it may develop or what its outcome may be. I  
15 further certify that I am not of counsel for any  
16 of the parties, nor am I related to counsel or  
17 litigants or associated with anyone connected  
18 with this cause to my knowledge.

19 Witness my hand this 23rd day of June,  
20 2007.

21

22

23 Court Reporter and Notary

24 Public, State at Large

25

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION

GREG DAVIS, AS NEXT FRIEND \*  
AND NATURAL GUARDIAN OF \*  
JOSHUA DAVIS \*

PLAINTIFF, \*

vs. \*

HOUSTON COUNTY, ALABAMA \*  
BOARD OF EDUCATION \*

DEFENDANT. \*

CASE NO. 1:06-CV-953-MEF

AFFIDAVIT OF BRAD SMITH

STATE OF ALABAMA )  
 )  
HOUSTON COUNTY )

Before me, the undersigned authority, personally appeared BRAD SMITH, who, being duly sworn, deposes and says as follows:

My name is Brad Smith. I am over 19 years of age and am a resident of the State of Alabama, residing in Rehobeth, Houston County, Alabama. I have personal knowledge of the facts stated below.

On the night of Friday, September 16, 2005, I was employed as a football Coach for Wicksburg High School. On that night, Wicksburg was playing a football game at Houston County High School. I was one of Josh Davis' position coaches at the time the incidents described below occurred.

Early in the 3<sup>rd</sup> Quarter of the football game I noticed that Josh Davis was not performing well during a series of defensive plays. I was yelling directions onto the field from Wicksburg's sideline. Josh Davis immediately made a gesture with his hand telling me to be quiet and leave him alone. I took this action as a sign of disrespect for the



coaching staff. On the next play, I decided to replace Josh with another player because disrespectful behavior towards coaches would not be tolerated on our team.

Wicksburg High School's head coach at that time, Charlie Winchester, told me to go and explain to Josh Davis why he had been removed from the game. I walked over to where Josh was standing and I put my arm around him. In a very calm and deliberate voice I told him that he was getting off of the ball too slowly and that he needed to improve his performance. I also told Josh that I removed him from the game because of his hand motion and disrespectful behavior.

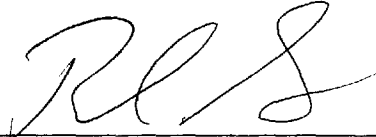
Once I completed my statement about Josh's disrespect, Josh jerked away from me and said "whatever." I immediately told him that he would not play the rest of the night due to his actions and attitude. I then walked back to Coach Winchester and explained to him the situation I was experiencing with Josh.

Josh Davis began throwing and kicking his helmet while he was on the sideline. Several coaches ordered Josh to put his helmet back on.

During the next offensive series, Josh ran back onto the field of play to assume his position as an offensive lineman. Coach Winchester saw this and immediately sent another player onto the field to replace Josh and send Josh back to our sideline. When the other player relayed this message to Josh, Josh turned directly towards me and ran in a straight line towards me. I continued to coach the other players, however, I saw Josh Davis coming towards me out of the corner of my eye. As Josh got closer I heard him saying the words "God Damn" and other profanity. Once Josh reached my position, he threw his shoulder and elbow into my shoulder and side. I turned around and grabbed his shoulder pads telling him that "he could not do that to me; he could not do that type of thing to a coach." Josh began throwing his arms around in an attempt to get away from me. Josh was being very aggressive and I believed that he was going to try and hit me. Believing I was in danger, I continued to hold onto Josh thinking he would calm down.

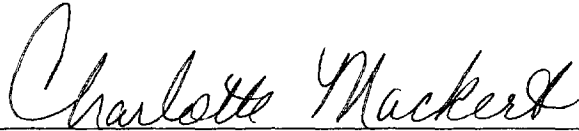
Coach Clay Carter ran over and grabbed Josh in order to move him away from me. Seeing Coach Carter's attempts to control the situation I released my hold on Josh's shoulder pads. Josh then turned and punched Coach Carter in his left eye. Josh then took off his helmet and threw it at me hitting my hip. After these events, Josh was escorted off the sidelines by a law enforcement officer.

The facts stated above are true and correct.



BRAD SMITH

Sworn to and subscribed before me on this the 11<sup>th</sup> day of September, 2007.



NOTARY PUBLIC

(S E A L)

MY COMMISSION EXPIRES:

5/29/2010

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION

GREG DAVIS, AS NEXT FRIEND \*  
AND NATURAL GUARDIAN OF \*  
JOSHUA DAVIS \*

PLAINTIFF, \*

vs. \*

HOUSTON COUNTY, ALABAMA \*  
BOARD OF EDUCATION \*

DEFENDANT. \*

CASE NO. 1:06-CV-953-MEF

AFFIDAVIT OF CHERYL SMITH

STATE OF ALABAMA )  
)  
Houston COUNTY )

Before me, the undersigned authority, personally appeared CHERYL SMITH, who, being duly sworn, deposes and says as follows:

My name is Cheryl Smith. I am over 19 years of age and am a resident of the State of Alabama, residing in Newton, Houston County, Alabama. I have personal knowledge of the facts stated below.

I am currently an Assistant Principal at Wicksburg High School ("WHS"), and I have held that position since the start of the 2003-2004 school year. Including my time as Assistant Principal, I have been employed at WHS for 8 years. One of my duties as Assistant Principal is to discipline students for violations of the Student Code of Conduct.

I am aware that Greg and Josh Davis have identified in their lawsuit instances concerning 1 current student at WHS and 1 former student of WHS. I know the facts surrounding these two incidents and I was the person responsible for

investigating these events and disciplining the students.

Sometime during the 2003-2004 school year, Ms. Susan Sanders, a custodian at WHS, informed me that Lance Hughes, a student at that time, kicked her in the buttocks. During my investigation I asked Ms. Sanders to explain the event to me. Ms. Sanders explained that Lance kicked her in the buttocks while they were "horse playing" on school grounds. My investigation into this matter showed that Ms. Sanders and Lance "horse played" frequently at WHS. Ms. Sanders was not injured by the kick. Ms. Sanders felt that the kick was disrespectful, but she believed it was not intended to harm her. Ms. Sanders did not want Lance to get into any formal trouble at school, but she did ask that I speak to him and explain appropriate conduct.

I spoke with Lance concerning this incident. I told him that even if he thought he could "horse play" with Ms. Sanders, he crossed over the line of disrespect when he kicked Ms. Sanders. I explained to Lance that the "playful" intentions of the kick did not make the act any less disrespectful. Lance indicated to me that he was sorry for his disrespectful action. I explained to Lance that he would not face more severe punishment because Ms. Sanders did not believe Lance had kicked her in anger and/or with intent to harm her. I clearly stated to Lance that if anything similar to this event happened again he would be sent to alternative school.

The second incident, Josh and Greg Davis identified involves a WHS teacher, Ms. Judy Childs, f/k/a Judy Joiner and a minor student at WHS named C.L. This incident occurred in 2006 while C.L. was a sixth grade student at WHS. My investigation of that incident found that Ms. Childs confronted C.L. and asked him if he had locked another student inside one of the school buses nearby. C.L. became angry and started to walk away from Ms. Childs. Ms. Childs placed her hand on C.L.'s shoulder and C.L. turned around, threw up his hands and said something to the effect of "Get your hands off me, bitch!" C.L. then began walking to the principal's office, because earlier I had instructed C.L. to come straight to my office if he started to feel that he was going to lose his temper and go out of control. Mr. Murrey, WHS principal at the time, administered corporal punishment

and I served as the witness.

I was aware of a rumor circulating around WHS that C.L. actually hit Ms. Childs, but Ms. Childs informed me and my investigation confirmed that C.L. never hit her.

After investigating these incidents, I believe that the punishment issued to these students was in accordance with the discipline policy in effect at WHS.

The facts stated above are true and correct.

Cheryl L. Smith  
CHERYL SMITH

Sworn to and subscribed before me on this the 7th  
day of November, 2007.

(S E A L)

Charlotte Mackert  
NOTARY PUBLIC

MY COMMISSION EXPIRES:

5/09/2010

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION

GREG DAVIS, AS NEXT FRIEND \*  
AND NATURAL GUARDIAN OF \*  
JOSHUA DAVIS \*

PLAINTIFF, \*

vs. \*

HOUSTON COUNTY, ALABAMA \*  
BOARD OF EDUCATION \*

DEFENDANT. \*

CASE NO.1:06-CV-953-MEF

AFFIDAVIT OF CLAY CARTER

STATE OF ALABAMA )  
 )  
HOUSTON COUNTY )

Before me, the undersigned authority, personally appeared CLAY CARTER, who, being duly sworn, deposes and says as follows:

My name is Clay Carter. I am over 19 years of age and am a resident of the State of Alabama, residing in Cottonwood, Houston County, Alabama. I have personal knowledge of the facts stated below.

On the night of Friday, September 16, 2005, I was employed as a football Coach for Wicksburg High School. On that night, Wicksburg was playing a football game at Houston County High School. I was coaching from Wicksburg's sideline during this game.

Josh Davis was removed from the game during a series of defensive plays because he was not performing well. Once Josh was on Wicksburg's sideline, I heard Coach Charlie Winchester ask Coach Brad Smith to explain to Josh why he had been pulled from the game. Coach Smith approached Josh and began trying to explain to Josh why he had been removed.




Josh immediately began acting very disrespectful to Coach Smith. He was walking away from the Coach while he was talking to him. Josh also turned back to Coach Smith and was talking disrespectful. Josh threw his helmet down the sideline.

When Wicksburg received the ball again, Josh ran out onto the field to assume his position on the offensive line. Josh was called back onto our sideline because his position coaches had decided that he would not re-enter the game due to his disrespectful behavior. When Josh was told to come off of the field, he turned and looked directly at Coach Smith. Josh then began coming off of the field and ran shoulder first into Coach Smith. It was evident that Josh ran into Coach Smith on purpose because of the path he took off of the field.

After Josh ran into Coach Smith, Coach Smith turned and grabbed Josh by the front of his shoulder pads. Coach Smith told Josh that he could not hit a coach like that. Josh began yelling and cursing at Coach Smith. Josh then lost control of himself even more and began jerking around. In an effort to diffuse the situation, I decided to put my hands around Josh's waist and separate him from Coach Smith. I told him "to calm down, and everything would be all right." As I was trying to calm Josh down, he swung his fist and hit me in the left eye knocking my glasses and my hat off of my head. After being hit, I released my hold on Josh and Coach Winchester, the head coach, began calling for police to escort Josh off of the field.

Before we left Houston County High School, a Houston County Sheriff's Deputy asked if I wanted to press charges against Josh and I said yes. Deputies at the game then filled out a report. The Deputies photographed the injuries to my face.

The facts stated above are true and correct.

  
CLAY CARTER

Sworn to and subscribed before me on this the 7th  
day of November, 2007.

(S E A L)

Charlotte Mackert  
NOTARY PUBLIC

MY COMMISSION EXPIRES:  
5/29/2010

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION

GREG DAVIS, AS NEXT FRIEND \*  
AND NATURAL GUARDIAN OF \*  
JOSHUA DAVIS \*

PLAINTIFF, \*

vs. \*

HOUSTON COUNTY, ALABAMA \*  
BOARD OF EDUCATION \*

DEFENDANT. \*

CASE NO.1:06-CV-953-MEF

AFFIDAVIT OF JAMES MURREY

STATE OF ALABAMA )  
 )  
HOUSTON COUNTY )

Before me, the undersigned authority, personally appeared JAMES MURREY, who, being duly sworn, deposes and says as follows:

My name is James Murrey. I am over 19 years of age and am a resident of the State of Alabama, residing in Headland, Henry County, Alabama. I have personal knowledge of the facts stated below.

On Friday, September 16, 2005, Wicksburg High School was involved in a football game against Houston County High School in Columbia, Alabama. At that time, I was the principal of Wicksburg High School. I was on Wicksburg's sideline during this football game.

Wicksburg's football team was having a hard time finding any success in this game despite their best efforts. The coaches kept demanding leadership from the players and reminded them that despite the score of the game they should continue to play hard and never quit. Josh Davis, one of the senior football players, was not hustling on the field.

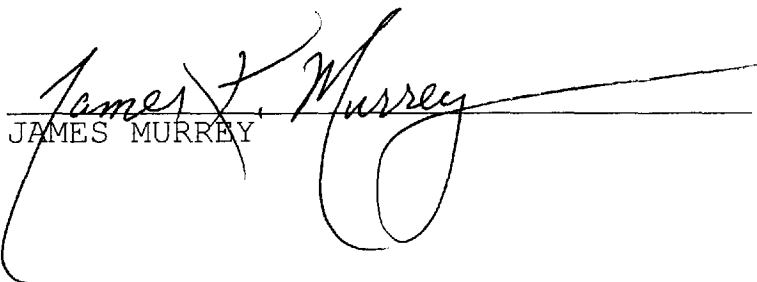
Coach Brad Smith asked me if I saw that Josh Davis was not performing well. I told Coach Smith I did not think Josh was playing hard.

Coach Smith called Josh Davis over to him and told Josh that he needed to perform to his capabilities. Josh brushed off Coach Smith by waving a hand at him. On the very next play Josh Davis made very little attempt to tackle the opposing team's ball carrier. Coach Smith again tried to encourage Josh Davis to perform to his capabilities. Josh was very disrespectful saying something to the effect of "whatever" toward Coach Smith, and Coach Smith benched Josh because of his attitude and lack of effort. Josh reacted to this by throwing his helmet down through the bench area.

On Wicksburg's next possession, Josh tried to re-enter the game. Wicksburg's other players motioned Josh back off of the field at the Coaches' directions. As Josh was leaving the field he stated that someone was a "God Damn Idiot." He continued off of the field and ran toward Coach Smith. Josh hit Coach Smith with his forearm as he was coming off of the field. Coach Smith then grabbed the front of Josh's shoulder pads and said something to the effect of "hey, you can't do that."

After Coach Smith's comments, Josh went ballistic. Coach Clay Carter tried to get in between Josh and Coach Smith in an attempt try and calm Josh down. At this point, Josh threw his helmet at Coach Smith striking him in the abdominal area. Fans in the stands were yelling about the situation. I stepped toward them instructing Mr. Davis and others to sit down and shut up. **It was during this time that Coach Carter was hit in the eye. As I was getting between the players Josh walked off with Officer Williams.**

The facts stated above are true and correct.

  
JAMES MURREY

Sworn to and subscribed before me on this the 17<sup>th</sup>  
day of September, 2007.

(S E A L)

Charlotte Mockert  
NOTARY PUBLIC

MY COMMISSION EXPIRES:

5/29/2010

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION

GREG DAVIS, AS NEXT FRIEND \*  
AND NATURAL GUARDIAN OF \*  
JOSHUA DAVIS \*

PLAINTIFF, \*

vs. \*

HOUSTON COUNTY, ALABAMA \*  
BOARD OF EDUCATION \*

DEFENDANT. \*

CASE NO.1:06-CV-953-MEF

AFFIDAVIT OF JOSH COX

STATE OF ALABAMA )  
)  
HOUSTON COUNTY )

Before me, the undersigned authority, personally appeared JOSH COX, who, being duly sworn, deposes and says as follows:

My name is Josh Cox. I am over 19 years of age and am a resident of the State of Alabama, residing in Bay Springs, Houston County, Alabama. I have personal knowledge of the facts stated below.

On the night of Friday, September 16, 2005, I was employed as a football Coach for Wicksburg High School. On that night, Wicksburg was playing a football game at Houston County High School. I was in the press box on the Wicksburg sideline. During this game I observed Josh Davis intentionally hit 2 of my fellow coaches. At the beginning of the 3<sup>rd</sup> Quarter of the football game Josh Davis was instructed to come out of the game because he was not performing well on the field. Josh began walking to the sidelines in a straight line toward Coach Brad Smith. As Davis approached Coach Smith, Davis threw his shoulder into Coach Smith's chest.



After being hit in the chest, Coach Smith grabbed Davis' jersey and I saw him begin talking to Josh. After hearing this, Davis jerked away and threw his helmet at Coach Smith striking him in his hip. Davis then proceeded to try and grab Coach Smith. As Davis was trying to grab Coach Smith, Coach Clay Carter grabbed Davis around the waist from behind in an effort to keep Davis from hitting Smith. Once Coach Carter grabbed Davis, Davis spun around and punched Coach Carter in the eye. Despite being punched in the eye, Coach Carter, with the help of Coach Phil Moseley, continued trying to calm Josh Davis down. These efforts did not work, and Davis pulled off his shoulder pads and threw them into the ground as he was escorted out of the stadium.

The facts stated above are true and correct.

  
\_\_\_\_\_  
JOSH COX

Sworn to and subscribed before me on this the 11th  
day of September, 2007.

  
\_\_\_\_\_  
NOTARY PUBLIC

(S E A L)

MY COMMISSION EXPIRES:

5/29/2010

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION

GREG DAVIS, AS NEXT FRIEND \*  
AND NATURAL GUARDIAN OF \*  
JOSHUA DAVIS \*

PLAINTIFF, \*

vs. \*

HOUSTON COUNTY, ALABAMA \*  
BOARD OF EDUCATION \*

DEFENDANT. \*

CASE NO.1:06-CV-953-MEF

AFFIDAVIT OF JUDY CHILDS

STATE OF ALABAMA )  
 )  
Houston COUNTY )

Before me, the undersigned authority, personally appeared JUDY CHILDS, who, being duly sworn, deposes and says as follows:

My name is JUDY CHILDS and I was formerly known as Judy Joiner. I am over 19 years of age and am a resident of the State of Alabama, residing in Hartford, Alabama County, Alabama. I have personal knowledge of the facts stated below.

I have been a teacher for 21 years. I have been a 6<sup>th</sup> grade teacher at Wicksburg High School ("WHS") for many of those years. In September of 2006, I had been assigned break duty to observe and supervise the students at WHS during break time.


One day during this time, students reported to me that C.L., then a sixth grade student, had locked another student inside one of the buses that was parked nearby. I confronted C.L. about the situation and he turned and began to walk away. When I confronted C.L. about this report he

began to walk away from me. Before this incident, C.L. had a history of running away from school so I began to follow him while calling for him to stop. C.L. continued to walk until I caught up with him. I placed my hand on C.L.'s shoulder so that I could stop him and talk to him. When I placed my hand upon his shoulder C.L. turned around, threw up his hands and said, "Get your hands off me bitch!" C.L. then turned away and began to walk away from me again. I continued to call for him to stop but he would not.

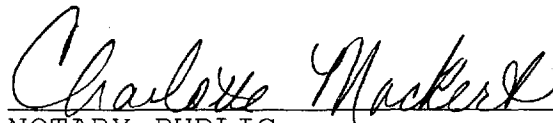
Some students began spreading a rumor that C.L. hit me. C.L. never hit me.

Cheryl Smith, WHS Assistant Principal, learned of the incident. Ms. Smith asked me if I was hurt and if I wanted her to call the police. I told Ms. Smith that I had not been hit therefore I was not hurt and a call to the police would not be necessary. I then described the incident to Ms. Smith as I have discussed above. Ms. Smith began disciplinary procedures against C.L. C.L. was disciplined by corporal punishment. Mr. Murrey, WHS Principal at the time, administered the corporal punishment and Ms. Smith served as the witness.

The facts stated above are true and correct.

  
JUDY CHILDS

Sworn to and subscribed before me on this the 7<sup>th</sup>  
day of November, 2007.

  
NOTARY PUBLIC

(S E A L)

MY COMMISSION EXPIRES:

5/29/2010

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION

GREG DAVIS, AS NEXT FRIEND \*  
AND NATURAL GUARDIAN OF \*  
JOSHUA DAVIS \*

PLAINTIFF, \*

vs. \*

HOUSTON COUNTY, ALABAMA \*  
BOARD OF EDUCATION \*

DEFENDANT. \*

CASE NO.1:06-CV-953-MEF

AFFIDAVIT OF WANDA SEALS

STATE OF ALABAMA )  
 )  
HOUSTON COUNTY )

Before me, the undersigned authority, personally appeared WANDA SEALS, who, being duly sworn, deposes and says as follows:

My name is Wanda Seals. I am over 19 years of age and am a resident of the State of Alabama, residing in Wicksburg, Houston County, Alabama. I have personal knowledge of the facts stated below.


On the night of Friday, September 16, 2005, I was standing on Wicksburg's sideline during the football game with Houston County High School. I saw Josh Davis run off of the field and run straight toward Coach Brad Smith. Josh lowered his head and ran into Coach Smith hard enough to push him back several feet. Coach Smith grabbed Josh's shoulder pads trying to stop Josh from attacking him. Coach Smith began talking to Josh in efforts to calm him down.

Josh continued to push Coach Smith. Coach Clay Carter then approached Josh and began trying to separate Josh and Coach Smith. Coach Carter then began attempts to calm Josh

down. At that time, Josh turned and hit Coach Carter in the face knocking his glasses off and giving him a swollen eye. Josh then continued pushing Coach Carter after he had punched him in the face.

Coach Charlie Winchester called for the police to come over and diffuse the situation. Josh was escorted off of the field by a law enforcement officer.

The facts stated above are true and correct.

  
WANDA SEALS

Sworn to and subscribed before me on this the 11<sup>th</sup>  
day of September, 2007.

(S E A L)

  
NOTARY PUBLIC

MY COMMISSION EXPIRES:

5/29/2010